



EMORY  
LAW

# Barton Child Law and Policy Center

## **Compendium of Criminal Laws on the Commercial Sexual Exploitation of Children:** Review of Federal and State Laws for Prosecuting Offenders *Second Edition – March 2012*

PREPARED BY:  
Darlene C. Lynch  
Kirsten Widner

Barton Child Law and Policy Center  
Emory University School of Law  
1301 Clifton Road  
Atlanta, Georgia 30322  
404.727.6664  
bartonclinic.emory@gmail.com  
www.bartoncenter.net



*Governor's Office for*  
**Children and Families**

Funded by **Georgia's Governor's Office for Children and Families** on behalf of the statewide initiative to end the commercial sexual exploitation of children.



Hundreds of children are commercially sexually exploited through prostitution in Georgia every month.<sup>i</sup> Atlanta is a hub for this activity and has been identified by federal law enforcement officials as one of the fourteen U.S. cities with the highest rates of child prostitution.<sup>ii</sup> However, the problem is not confined to the Atlanta area; children are being commercially sexually exploited throughout the state.<sup>iii</sup>

Commercially sexually exploiting children through prostitution violates a number of federal and state criminal statutes related to sex trafficking, pimping, and pandering.<sup>iv</sup> However, these crimes rarely occur in isolation. Often, the exploitation of children is part of a broader criminal enterprise such as a street gang or human trafficking ring.<sup>v</sup> Whether or not such an enterprise is involved, exploited children may be kidnapped, beaten, raped, threatened, or provided drugs to ensure compliance.<sup>vi</sup> Efforts to identify, arrest, and prosecute those who commercially sexually exploit children will be more effective and produce longer sentences if they take into account this broad range of related criminal activity.

There are some limitations. When a single act, such as the sexual assault of a child, gives rise to more than one offense, the constitutional prohibition against double jeopardy may prevent multiple convictions.<sup>vii</sup> A defendant cannot, for example, be convicted of a greater offense and

---

<sup>i</sup> Research conducted for the Governor's Office for Children and Families shows that in 2011 between 200-300 girls were being prostituted in Georgia each month. See [http://www.georgia.gov/vgn/images/portal/cit\\_1210/34/0/182162657CSEC-Quarterly-Report-Nov-2011.pdf](http://www.georgia.gov/vgn/images/portal/cit_1210/34/0/182162657CSEC-Quarterly-Report-Nov-2011.pdf).

<sup>ii</sup> Chris Swecker, Assistant Dir., Crim. Investigative Div. FBI, Statement Before the Comm. on Security and Cooperation in Europe, U.S. Helsinki Comm.: Exploiting Americans on American Soil: Domestic Trafficking Exposed (June 7, 2005) available at <http://www.fbi.gov/congress/congress05/swecker060705.htm>.

<sup>iii</sup> See, e.g., Lindsey Connell, *Three Women and Teen Busted in Prostitution Sting*, WTVM 9 (Fifteen year old arrested for prostitution in Columbus, Ga.) available at: <http://www.wtvm.com/Global/story.asp?S=11950948>; David Schoetz, *Stings Target Madams Posing as Masseuses*, ABC News (Seventeen year old among those arrested for prostitution in Macon, Ga.) available at: <http://abcnews.go.com/US/story?id=5435009&page=1>.

<sup>iv</sup> See, e.g., 18 U.S.C. § 1591 (2010) (describing the crime of Sex Trafficking of Children by Force, Fraud or Coercion); O.C.G.A. § 16-6-11 (2010) (prohibiting pimping).

<sup>v</sup> David Finkelhor and Richard Ormrod, *Prostitution of Juveniles: Patterns From NIBRS*, OJJDP JUVENILE JUSTICE BULLETIN 2 (2004) ("Both international rings and interstate crime operations traffic young girls....gangs may require members to engage in sex for money or other services."), available at <http://www.ncjrs.gov/pdffiles1/ojjdp/203946.pdf>.

<sup>vi</sup> For case studies and background on the exploitation of children in Atlanta, see ALEXANDRA PRIEBE & CRISTEN SUHR, HIDDEN IN PLAIN VIEW: THE COMMERCIAL SEXUAL EXPLOITATION OF GIRLS IN ATLANTA 5 (Atlanta Women's Agenda 2005), available at [http://www.womensagenda.com/Child\\_Prostitution.pdf](http://www.womensagenda.com/Child_Prostitution.pdf).

<sup>vii</sup> See U.S. CONST. amend. V ("nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb"); O.C.G.A. § 16-1-7 (2010) ("the accused . . . may not . . . be convicted of more than one crime if: (1) One crime is included in the other; or (2) The crimes differ only in that one is defined to prohibit a designated kind of conduct generally and the other to prohibit a specific instance of such conduct . See also Schiro v. Farley, 510 U.S. 222 (1994)



a lesser included offense at the same time.<sup>viii</sup> On the other hand, he may be convicted of multiple offenses when those offenses differ slightly, with each requiring proof of a fact that the other does not.<sup>ix</sup> For example, he may be convicted of rape and statutory rape based on the same sexual act, because rape requires proof of force which statutory rape does not, and statutory rape requires proof of the victim's age which rape does not.<sup>x</sup> Additionally, when an act is a crime under two separate jurisdictions' laws – for example when the act is both a federal and a state crime – it does not violate double jeopardy to prosecute the offender under both systems.<sup>xi</sup> Thus, a defendant can be convicted under Georgia's sex trafficking law<sup>xii</sup> and under the federal sex trafficking law<sup>xiii</sup> for the exact same act without violating the defendant's constitutional rights. Further, when the defendant commits a series of separate acts during the exploitation of a child, double jeopardy rules do not prevent him from being charged, convicted and punished for a range of offenses based on the different types of conduct that occurred.<sup>xiv</sup> Finally, in Georgia, certain offenses, such as sex trafficking, kidnapping and possession of firearm during a felony, are always treated as separate offenses, and the defendant may be convicted of these crimes regardless of any related convictions.<sup>xv</sup>

This report provides a comprehensive list of Georgia and federal criminal laws that are commonly violated during the commercial sexual exploitation of children ("CSEC"). It includes a detailed chart explaining how different types of crimes relate to CSEC, outlining the elements of each crime and the associated penalties, and providing citations to the criminal statutes and any relevant case law interpreting those statutes. These statutes and related cases law are current through March 2012.

---

("Double jeopardy protections stem from underlying premise that defendant should not be twice tried or punished for same offense.").

<sup>viii</sup> A lesser included offense is the same as the greater offense, except that it requires proof of fewer elements, a less culpable state of mind, or a less serious injury. O.C.G.A. § 16-1-6 (2010).

<sup>ix</sup> Blockburger v. U.S., 284 U.S. 299 (1932); Drinkard v. Walker, 636 S.E.2d 530 (Ga. 2006).

<sup>x</sup> Drinkard, 636 S.E.2d at 530 (Ga. 2006).

<sup>xi</sup> See U.S. v. Lanza, 260 U.S. 377 (1922).

<sup>xii</sup> O.C.G.A. § 16-5-46 (2010).

<sup>xiii</sup> 18 U.S.C. § 1591 (2010).

<sup>xiv</sup> See, e.g., Metts v. State, 677 S.E.2d 377 (Ga. Ct. App. 2009) (where defendant committed false imprisonment by locking his girlfriend's daughter in their home and aggravated child molestation by forcing her to perform oral sex on him, the court upheld defendant's separate convictions because the crimes were based on different conduct.)

<sup>xv</sup> Violations of certain state statutes never merge with other offenses and are always treated as separate and additional crimes. See O.C.G.A. §§16-5-46(f) (sex trafficking); 16-5-40(c) (kidnapping); and 16-11-106 (possession of a firearm while committing a felony). It should be noted, however, that is unclear whether these no merge provisions would always withstand constitutional scrutiny.



**TABLE OF CONTENTS**

**GEORGIA OFFENSES**

<u>Offense</u>	<u>Citation</u>	<u>Page</u>
<u>Pimping, pandering and trafficking offenses</u>		
Pimping	O.C.G.A. § 16-6-11	1
Pandering	O.C.G.A. § 16-6-12	2
Keeping a place of prostitution	O.C.G.A. § 16-6-10	2
Pandering by compulsion	O.C.G.A. § 16-6-14	3
Solicitation of sodomy	O.C.G.A. § 16-6-15	3
Criminal solicitation	O.C.G.A. § 16-4-7	3
Trafficking for sexual servitude	O.C.G.A. § 16-5-46	4
<u>Child-specific offenses</u>		
Statutory rape	O.C.G.A. § 16-6-3	5
Child molestation	O.C.G.A. § 16-6-4	5
Aggravated child molestation	O.C.G.A. § 16-6-4	6
Cruelty to children	O.C.G.A. § 16-5-70	6
Enticing a child for indecent purposes	O.C.G.A. § 16-6-5	7
Contributing to the delinquency of a minor	O.C.G.A. § 16-12-1	8
<u>Sexual offenses</u>		
Rape	O.C.G.A. § 16-6-1	9
Sodomy	O.C.G.A. § 16-6-2	9
Aggravated sodomy	O.C.G.A. § 16-6-2	10
Sexual battery	O.C.G.A. § 16-6-22.1	10
Aggravated sexual battery	O.C.G.A. § 16-6-22.2	10
<u>Kidnapping offenses</u>		
Kidnapping	O.C.G.A. § 16-5-40	11
False imprisonment	O.C.G.A. § 16-5-41	12
Interference with custody of a child	O.C.G.A. § 16-5-45	12
<u>Violent offenses</u>		
Murder	O.C.G.A. § 16-5-1	13
Voluntary manslaughter	O.C.G.A. § 16-5-2	14
Involuntary manslaughter	O.C.G.A. § 16-5-3	14



GEORGIA OFFENSES CONTINUED

<u>Offense</u>	<u>Citation</u>	<u>Page</u>
Simple assault	O.C.G.A. § 16-5-20	15
Aggravated assault	O.C.G.A. § 16-5-21	15
Terroristic threats	O.C.G.A. § 16-11-37	16
Simple battery	O.C.G.A. § 16-5-23	17
Battery	O.C.G.A. § 16-5-23.1	17
Aggravated battery	O.C.G.A. § 16-5-24	18
Reckless conduct	O.C.G.A. § 16-5-60	18
Pointing a gun at another	O.C.G.A. § 16-11-102	19
Possession of a gun or firearm	O.C.G.A. § 16-11-106	19
Harassing phone calls	O.C.G.A. § 16-11-39.1	19
Disorderly conduct	O.C.G.A. § 16-11-39	20
<u>Violent offenses involving a pregnant victim</u>		
Feticide	O.C.G.A. § 16-5-80	21
Voluntary manslaughter of an unborn child	O.C.G.A. § 16-5-80	21
Assault on an unborn child	O.C.G.A. § 16-5-28	21
Battery of an unborn child	O.C.G.A. § 16-5-29	22
<u>Offenses involving pornography and other sexually-explicit images</u>		
Sexual exploitation of children	O.C.G.A. § 16-12-100	22
Electronically furnishing obscene material to minors	O.C.G.A. § 16-12-100.1	23
Computer or electronic pornography	O.C.G.A. § 16-12-100.2	24
Online solicitation of a child	O.C.G.A. § 16-12-100.2	24
Obscene internet contact with a child	O.C.G.A. § 16-12-100.2	25
Online sexual exploitation of a child	O.C.G.A. § 16-12-100.2	25
Obscene telephone contact with a child	O.C.G.A. § 16-12-100.3	25
Distributing obscene material	O.C.G.A. § 16-12-80	26
Distributing material depicting nudity or sexual conduct	O.C.G.A. § 16-20-81	26
<u>Organized crime offenses</u>		
Racketeer influenced and corrupt organizations	O.C.G.A. § 16-14-4	27
Participation in criminal street gang activity	O.C.G.A. § 16-15-4	28
Loitering or prowling	O.C.G.A. § 16-11-36	29



GEORGIA OFFENSES CONTINUED

<u>Offense</u>	<u>Citation</u>	<u>Page</u>
<u>False identification offenses</u>		
Forgery (First Degree)	O.C.G.A. § 16-9-1	30
Forgery (Second Degree)	O.C.G.A. § 16-9-2	30
Use of false identification documents	O.C.G.A. § 16-9-4	31
Identity theft	O.C.G.A. § 16-9-12	32
<u>Offenses relating to helping criminals elude the law</u>		
Helping a sexual offender elude the law	O.C.G.A. § 16-6-25	32
Hindering apprehension of a felon	O.C.G.A. § 16-10-50	32

FEDERAL OFFENSES

<u>Offense</u>	<u>Citation</u>	<u>Page</u>
<u>Pimping, pandering, and sex trafficking offenses</u>		
Sex trafficking	18 U.S.C. § 1591	33
Labor trafficking	18 U.S.C. § 1590	34
Interstate transportation of an individual for prostitution	18 U.S.C. § 2421	34
Enticement of individuals to travel interstate for prostitution	18 U.S.C. § 2422	34
Transportation of children for prostitution	18 U.S.C. § 2423	35
Registration of aliens involved in prostitution	18 U.S.C. § 2424	36
Use of interstate facilities to transmit information about a child to facilitate prostitution	18 U.S.C. § 2425	36
<u>Sexual offenses</u>		
Aggravated sexual abuse	18 U.S.C. § 2241	36
Aggravated sexual abuse of a child	18 U.S.C. § 2241	37
Sexual abuse	18 U.S.C. § 2242	37
Failure to register as a sex offender	18 U.S.C. § 2250	38



FEDERAL OFFENSES CONTINUED

<u>Offense</u>	<u>Citation</u>	<u>Page</u>
<u>Kidnapping and involuntary servitude offenses</u>		
Kidnapping	18 U.S.C. § 1201	38
Conspiracy against civil rights	18 U.S.C. § 241	39
Enticement into slavery	18 U.S.C. § 1583	39
Sale into involuntary servitude	18 U.S.C. § 1584	40
Forced labor	18 U.S.C. § 1589	41
<u>Violent offenses</u>		
Murder	18 U.S.C. § 1111	41
Manslaughter	18 U.S.C. § 1112	42
Attempt to commit murder or manslaughter	18 U.S.C. § 1113	43
Conspiracy to commit murder	18 U.S.C. § 1117	43
Assault	18 U.S.C. § 113	43
Maiming	18 U.S.C. § 114	44
Interstate domestic violence	18 U.S.C. § 2261	44
Domestic assault by a habitual offender	18 U.S.C. § 117	45
Carrying or possessing a firearm during a violent crime	18 U.S.C. § 924	45
Harm to an unborn child	18 U.S.C. § 1841	46
<u>Offenses involving pornography and other sexually explicit depictions</u>		
Sexual exploitation of children in visual depictions	18 U.S.C. § 2251	46
Selling or buying children	18 U.S.C. § 2251A	47
Activities involving the sexual exploitation of children	18 U.S.C. § 2252	47
Activities relating to child pornography	18 U.S.C. § 2252A	48
Record-keeping related to depictions of actual sexual conduct	18 U.S.C. § 2257	49
Record-keeping related to depictions of simulated sexual conduct	18 U.S.C. § 2257A	49
Producing sexually explicit depiction of a child for importation into the U.S.	18 U.S.C. § 2260	49
Mailing obscene material	18 U.S.C. § 1461	50
Interstate transportation of obscene materials	18 U.S.C. § 1462	51
Production of obscene materials for distribution	18 U.S.C. § 1465	51



## FEDERAL OFFENSES CONTINUED

<u>Offense</u>	<u>Citation</u>	<u>Page</u>
Engaging in the business of selling obscene materials	18 U.S.C. § 1466	51
Obscene representations of the sexual abuse of children	18 U.S.C. § 1466A	52
Transfer of obscene material to children	18 U.S.C. § 1470	52
 <u>Drug offenses</u>		
Distribution of controlled substances to persons under age 21	21 U.S.C. § 859	53
 <u>Organized crime offenses</u>		
Racketeer influenced and corrupt organizations	18 U.S.C. 1962	53
Criminal street gangs	18 U.S.C. § 521	54
 <u>False identification offenses</u>		
Fraud related to identification documents	18 U.S.C. § 1028	55
Aggravated identity theft	18 U.S.C. § 1028A	56
Misuse of evidence of citizenship and naturalization	18 U.S.C. § 1423	56
Misuse of papers in naturalization proceedings	18 U.S.C. § 1424	56
Reproduction of naturalization or citizenship papers	18 U.S.C. § 1426	56
Forgery or misuse of a passport	18 U.S.C. § 1543	57
Forgery or misuse of a visa or related documents	18 U.S.C. § 1546	57
Fraud relating to documents used in trafficking	18 U.S.C. § 1592	57

## ADDITIONAL CONTENTS

	<u>Page</u>
Next Steps	58
Endnotes	60

GEORGIA PIMPING, PANDERING, AND TRAFFICKING OFFENSES	RELEVANT LAW	ELEMENTS
Pimping, pandering, and trafficking a child for prostitution are felonies in Georgia. The crimes of pimping, pandering and keeping a house of prostitution are punishable by 5 to 20 years in prison. In addition to imprisonment, the defendants are subject to fines and forfeiture of property. The crime of child sex trafficking is punishable by 10 to 20 years in prison.		
Pimping <sup>1</sup>	O.C.G.A. § 16-6-11	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Offers or agrees to obtain a prostitute for another person;</li> <li>2. Offers or agrees to arrange a meeting for purposes of prostitution;</li> <li>3. Knowingly directs or transports a person for purposes of prostitution;<sup>2</sup></li> <li>4. Knowingly receives money or other value from a prostitute; or</li> <li>5. Aids, counsels or commands another in the commission of prostitution, or assists in prostitution where the proceeds are to be divided pro-rata.</li> </ol> <ul style="list-style-type: none"> <li>• “A person commits the offense of prostitution when he or she performs or offers or consents to perform a sexual act, including but not limited to sexual intercourse or sodomy, for money or other items of value.”<sup>3</sup></li> <li>• For felony pimping of a child under age 18, the statute does not require the state to prove that the defendant knew the age of the person being prostituted.<sup>4</sup></li> </ul> <p><u>Penalty</u><sup>5</sup></p> <ul style="list-style-type: none"> <li>• Felony when a child under age 18 is prostituted<sup>6</sup></li> <li>• If the victim is between ages 16 and 18: <ul style="list-style-type: none"> <li>○ 5 to 20 years imprisonment, and</li> <li>○ Fine of \$2,500 to \$10,000.</li> </ul> </li> <li>• If the victim is under age 16: <ul style="list-style-type: none"> <li>○ 10 to 30 years imprisonment, and</li> <li>○ Fine of up to \$100,000.</li> </ul> </li> <li>• An additional fine of \$2,500 if the offense is committed within 1,000 feet of any school building or grounds, public place of worship, or playground or youth recreation center, and</li> <li>• Forfeiture of motor vehicles and proceeds.<sup>7</sup></li> </ul>

Pandering	O.C.G.A. § 16-6-12	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Solicits a person to perform an act of prostitution for himself or others, or</li> <li>2. Knowingly assembles others at a place to be solicited for prostitution.<sup>8</sup></li> </ol> <ul style="list-style-type: none"> <li>• The defendant commits act of pandering even if he solicits a single act of prostitution for himself.<sup>9</sup></li> <li>• For felony pandering of a child under age 18, the statute does not require the state to prove that the defendant knew the age of the person being prostituted.<sup>10</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Felony when a child under age 18 is prostituted</li> <li>• If the victim is between ages 16 and 18: <ul style="list-style-type: none"> <li>○ 5 to 20 years imprisonment, and</li> <li>○ Fine of \$2,500 to \$10,000.</li> </ul> </li> <li>• If the victim is under age 16: <ul style="list-style-type: none"> <li>○ 10 to 30 years imprisonment, and</li> <li>○ Fine of up to \$100,000.</li> </ul> </li> <li>• An additional fine of \$2,500 if the offense is committed within 1,000 feet of any school building or grounds, public place of worship, or playground or youth recreation center, and</li> <li>• Forfeiture of motor vehicles and proceeds.<sup>11</sup></li> </ul>
Keeping a place of prostitution	O.C.G.A. § 16-6-10	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Knowingly</li> <li>2. Permits the use of a place in his control<sup>12</sup></li> <li>3. For the purposes of prostitution.</li> </ol> <ul style="list-style-type: none"> <li>• For felony penalties, the statute does not require the state to prove that the defendant knew the age of the person being prostituted.<sup>13</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Felony when a child under age 18 is prostituted</li> <li>• If the victim is between ages 16 and 18: <ul style="list-style-type: none"> <li>○ 5 to 20 years imprisonment, and</li> <li>○ Fine of \$2,500 to \$10,000.</li> </ul> </li> </ul>

Keeping a place of prostitution (Cont'd)	O.C.G.A. § 16-6-10	<ul style="list-style-type: none"> <li>• If the victim is under age 16: <ul style="list-style-type: none"> <li>○ 10 to 30 years imprisonment, and</li> <li>○ Fine of up to \$100,000.</li> </ul> </li> <li>• An additional fine of \$2,500 if the offense is committed within 1,000 feet of any school building or grounds, public place of worship, or playground or youth recreation center, and</li> <li>• Forfeiture of motor vehicles and proceeds.</li> </ul>
Pandering by compulsion	O.C.G.A. § 16-6-14	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. By duress or coercion</li> <li>2. Causes a person to perform an act of prostitution.<sup>14</sup></li> </ol> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• 1 to 10 years imprisonment.</li> </ul>
Solicitation of Sodomy	O.C.G.A. § 16-6-15	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Solicits a person to</li> <li>2. Perform or submit to an act of sodomy</li> </ol> <ul style="list-style-type: none"> <li>• For felony solicitation of a child under age 18, the statute does not require the state to prove that the defendant knew the age of the person solicited.<sup>15</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• 5 to 20 years imprisonment when a child under age 18 is solicited for money.</li> </ul>
Criminal Solicitation	O.C.G.A. § 16-4-7	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Intentionally</li> <li>2. Solicits, requests, commands, or attempts to</li> <li>3. Cause another person to engage in conduct constituting a felony.</li> </ol> <ul style="list-style-type: none"> <li>• The defendant is guilty of criminal solicitation when he solicits another adult to engage in prostitution with a child, which is a felony pursuant to O.C.G.A. § 16-6-13.</li> <li>• Additionally, soliciting someone to engage in sexual acts with a child may violate any of a number of felony child-specific and/or sexual offenses (see those sections below).</li> </ul>

Criminal Solicitation (Cont'd)	O.C.G.A. § 16-4-7	<ul style="list-style-type: none"> <li>The state need only show that the defendant solicited another to engage in prostitution with a child, not that the other person actually committed the act.<sup>16</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>1 to 3 years imprisonment, or</li> <li>Up to 5 years imprisonment if the defendant solicited another to commit a crime punishable by death or by life imprisonment.</li> </ul>
Trafficking of a Person for Labor or Sexual Servitude	O.C.G.A. § 16-5-46 <sup>17</sup>	<p>Any person who</p> <ol style="list-style-type: none"> <li>Knowingly</li> <li>Recruits, entices, harbors, transports, obtains or maintains</li> <li>Another person</li> <li>For the purpose of labor or sexual servitude.</li> </ol> <ul style="list-style-type: none"> <li>“Labor servitude” means any work or service of financial value which is provided by another person and is induced by coercion or deception. <ul style="list-style-type: none"> <li>This could include forcing a CSEC victim to work in a strip club.</li> </ul> </li> <li>“Sexual servitude” means any sexually explicit conduct<sup>18</sup> or sexually explicit performance which is induced <ul style="list-style-type: none"> <li>by coercion or deception from a person age 18 or older</li> <li>from a person under age 18, regardless of coercion or deception.</li> </ul> </li> <li>Lack of knowledge of the victim’s age is not a defense.</li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>10 to 20 years imprisonment if the victim is under age 18 and there is no coercion or deception, or</li> <li>25 to 50 years imprisonment if the victim is under age 18 and there is coercion or deception, and</li> <li>Fine of up to \$100,000, and</li> <li>Forfeiture of any property used in or gained from the trafficking.<sup>19</sup></li> </ul>

GEORGIA CHILD-SPECIFIC OFFENSES	RELEVANT LAW	ELEMENTS
Georgia has a host of child-specific criminal statutes that can be used to prosecute exploiters of children. The sexual acts involved in pimping, pandering or trafficking a child often amount to statutory rape or child molestation. Emotional or physical harm done to a child in the course of the exploitation may also constitute child cruelty. Additionally, inducing a child to engage in prostitution or related acts could fall under a number of child-specific offenses. Penalties for these offenses can be substantial, ranging up to life imprisonment.		
Statutory Rape	O.C.G.A. § 16-6-3	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Has sexual intercourse</li> <li>2. With a child under age 16.</li> </ol> <ul style="list-style-type: none"> <li>• The elements of force and lack of consent, which are necessary for forcible rape, are irrelevant to statutory rape.<sup>20</sup></li> <li>• The defendant's belief that victim was greater than age 16 is not a defense.<sup>21</sup></li> <li>• The defendant cannot be convicted based solely on the unsupported testimony of the victim.<sup>22</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Misdemeanor penalty if the victim is between ages 14 and 16, and the defendant is 18 or younger and no more than 4 years older than the victim;<sup>23</sup></li> <li>• 1 to 20 years imprisonment generally, and</li> <li>• 10 to 20 years imprisonment if the defendant is age 21 or older.</li> </ul>
Child Molestation	O.C.G.A. § 16-6-4	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Does an immoral or indecent act;<sup>24</sup></li> <li>2. To, with, or in the presence of a child under age 16;</li> <li>3. With intent to arouse or satisfy the sexual desires of the child or the person.</li> </ol> <p>or</p> <p>Any person who</p> <ol style="list-style-type: none"> <li>1. Transmits images electronically to</li> <li>2. A child under age 16</li> <li>3. Which show a person inducing or participating in an immoral or indecent act</li> <li>4. With the intent to arouse or satisfy the sexual desires of the child or the person.<sup>25</sup></li> </ol>

Child Molestation (Cont'd)	O.C.G.A. § 16-6-4	<ul style="list-style-type: none"> <li>• Force and lack of consent are not required elements.<sup>26</sup></li> <li>• Knowledge of the victim's age is also not necessary.<sup>27</sup></li> <li>• Skin-to-skin contact is not necessary.<sup>28</sup></li> <li>• The defendant need not actually touch the child, as long as he commits an indecent or immoral act in the child's presence to satisfy sexual desires.<sup>29</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Misdemeanor penalty if the victim is between ages 14 and 16, and the defendant is age 18 or younger and not more than 4 years older than the victim.</li> <li>• In all other cases, 5 to 20 years imprisonment for first offense,</li> <li>• 10 to 30 years or life imprisonment for subsequent offenses.</li> </ul>
Aggravated Child Molestation	O.C.G.A. § 16-6-4	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Commits child molestation (see above), and <ol style="list-style-type: none"> <li>a. The child is physically injured, or</li> <li>b. Sodomy is involved.</li> </ol> </li> </ol> <ul style="list-style-type: none"> <li>• Georgia's rape shield statute applies to aggravated child molestation, which means that the child's past sexual behavior cannot be used as a defense.<sup>30</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Misdemeanor penalty if the victim is between ages 13 and 16, the defendant is age 18 or younger and not more than 4 years older than the victim, and the crime involves sodomy.</li> <li>• In all other cases, life imprisonment or a split sentence of not less than 25 years in prison followed by life probation.</li> </ul>
Cruelty to Children	O.C.G.A. § 16-5-70	<p><u>Cruelty in 1<sup>st</sup> and 2<sup>nd</sup> Degree<sup>31</sup></u></p> <p>Any person who</p> <ol style="list-style-type: none"> <li>1. Intentionally (first degree) or recklessly (second degree),</li> <li>2. Causes a child under age 18</li> <li>3. To experience cruel or excessive physical or mental pain.<sup>32</sup></li> </ol> <ul style="list-style-type: none"> <li>• When a child is in defendant's care, defendant's failure to seek medical attention for a child's injuries can support a conviction.<sup>33</sup></li> <li>• Juries can decide what constitutes "cruel or excessive physical or mental pain."<sup>34</sup></li> </ul>

Cruelty to Children (Cont'd)	O.C.G.A. § 16-5-70	<ul style="list-style-type: none"> <li>The fact that a child has no outward physical signs of trauma does not preclude a finding of extreme mental pain.<sup>35</sup></li> </ul> <p><u>Cruelty in 3<sup>rd</sup> Degree</u> Any person who</p> <ol style="list-style-type: none"> <li>Is the primary aggressor in</li> <li>A forcible felony, battery, or family violence battery, and</li> <li>Commits that felony             <ol style="list-style-type: none"> <li>Intending that a child under age 18 witness it, or</li> <li>Knowing that a child under age 18 is present.</li> </ol> </li> </ol> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>5 to 20 years imprisonment for cruelty in the first degree,</li> <li>1 to 10 years imprisonment for cruelty in the second degree,</li> <li>Misdemeanor penalty for first and second conviction for cruelty in the third degree, with 1 to 3 years imprisonment for third and subsequent offenses.</li> </ul>
Enticing a Child for Indecent Purposes	O.C.G.A. § 16-6-5	<p>An person who</p> <ol style="list-style-type: none"> <li>Solicits, entices, or takes to any place</li> <li>A child under age 16</li> <li>For the purpose of committing child molestation or indecent acts</li> </ol> <ul style="list-style-type: none"> <li>Moving the victim is an element of enticement, but not molestation.<sup>36</sup></li> <li>Movement of the victim can be achieved through the use of physical force, enticement, or persuasion.<sup>37</sup></li> <li>A defendant may be convicted of this offense even if the child appeared to go voluntarily with the defendant, as long as she was enticed or persuaded to go.<sup>38</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>Misdemeanor penalty if the victim is between ages 14 and 16, and the defendant is age 18 or younger and not more than 4 years older than the victim.</li> <li>In all other cases, 10 to 30 years imprisonment.</li> </ul>

Contributing to the Delinquency, Unruliness, or Deprivation of a Minor	O.C.G.A. § 16-12-1	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Knowingly and willfully <ol style="list-style-type: none"> <li>a. Contributes to a minor's<sup>39</sup> commission of a delinquent act;<sup>40</sup> or</li> <li>b. Contributes to a minor being deemed unruly;<sup>41</sup> or</li> <li>c. Contributes to a minor's commission of a violent or forcible felony; or</li> <li>d. Provides the minor with a weapon to commit a felony or delinquent act;<sup>42</sup> or</li> </ol> </li> <li>2. Willfully contributes to a minor being deemed deprived.<sup>43</sup></li> </ol> <ul style="list-style-type: none"> <li>• It is not a defense that the minor was never adjudicated delinquent, unruly or deprived.<sup>44</sup></li> <li>• There is a limited exception to the offense of contributing to the unruliness of a minor for runaway shelters that are registered or licensed and provide short-term emergency shelter, so long as a parent or the Division of Family and Children Services is notified within 72 hours.<sup>45</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• For contributing to the delinquency or unruliness of a minor: <ul style="list-style-type: none"> <li>○ Misdemeanor penalty for the first and second offense,</li> <li>○ Fine and/or 1 to 3 years imprisonment for subsequent offenses.</li> </ul> </li> <li>• For contributing to the deprivation of a minor when no serious injury<sup>46</sup> or death results: <ul style="list-style-type: none"> <li>○ Misdemeanor penalty for the first offense,</li> <li>○ High and aggravated misdemeanor penalty for the second offense,<sup>47</sup></li> <li>○ Fine and/or 1 to 5 years imprisonment for subsequent offenses.</li> </ul> </li> <li>• For contributing to the deprivation of a minor when serious injury or death results: <ul style="list-style-type: none"> <li>○ 1 to 5 years imprisonment for the first offense,</li> <li>○ 3 to 20 years imprisonment for subsequent offenses.</li> </ul> </li> <li>• For contributing to a minor's commission of a violent or forcible felony: <ul style="list-style-type: none"> <li>• 1 to 5 years imprisonment for the first offense,</li> <li>• 3 to 20 years imprisonment for subsequent offenses.</li> </ul> </li> </ul>
--	--------------------	---

GEORGIA SEXUAL OFFENSES	RELEVANT LAW	ELEMENTS
Georgia also has a wide range of sexual offenses, and many of the acts covered by these statutes occur when a child is being commercially sexually exploited. Penalties for these offenses can be severe, particularly when the victim is a child. If these statutes are used to address demand, the offender may spend the rest of his life in prison.		
Rape	O.C.G.A. § 16-6-1	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Has carnal knowledge of               <ol style="list-style-type: none"> <li>a. A female with force and against her will; or</li> <li>b. A child between the ages of 10 and 16 with force; or</li> <li>c. A child under age 10.</li> </ol> </li> </ol> <ul style="list-style-type: none"> <li>• Carnal knowledge occurs when a female sex organ is penetrated by a male sex organ.<sup>48</sup></li> <li>• Even slight penetration will sustain a conviction.<sup>49</sup></li> <li>• Vaginal trauma or physical injury is not required.<sup>50</sup></li> <li>• The “against her will” element of rape is automatically met when the victim is under age 16, which is the legal age of sexual consent.<sup>51</sup></li> <li>• Only a minimal amount of force must be proven for victims between ages 10 and 16.<sup>52</sup></li> <li>• It is no defense that the defendant believed the victim was old enough to consent.<sup>53</sup></li> <li>• Georgia’s rape shield statute bars evidence of the victim’s prior sexual activity, unless the victim is 16 or older and the activity involved consensual sex with the defendant.<sup>54</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Imprisonment for life without parole, life with parole, or a split sentence with not less than 25 years in prison followed by life probation.<sup>55</sup></li> </ul>
Sodomy	O.C.G.A. § 16-6-2 <sup>56</sup>	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Performs or submits to</li> <li>2. Oral or anal sex.</li> </ol> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Misdemeanor penalty if victim is between ages 13 and 16 and the defendant is 18 or younger and not more than 4 years older than the victim.</li> <li>• In all other cases, 1 to 20 years imprisonment.</li> </ul>

Aggravated Sodomy	O.C.G.A. § 16-6-2	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Commits sodomy with <ol style="list-style-type: none"> <li>a. Another person with force and against his or her will; or</li> <li>b. A child between the ages of 10 and 16 with force; or</li> <li>c. With a child under age 10.</li> </ol> </li> <li>• Only a minimal amount of force must be proven for victims between ages 10 and 16.<sup>57</sup></li> <li>• Force means the defendant's words or acts instilled a reasonable apprehension of bodily harm or other dangerous consequences to the victim or others.<sup>58</sup></li> <li>• The fact that the victim was a known prostitute does not automatically mean that she consented to the acts of aggravated sodomy perpetrated against her.<sup>59</sup></li> <li>• Georgia's rape shield statute applies to aggravated sodomy.<sup>60</sup></li> </ol> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Imprisonment for life or a split sentence with not less than 25 years in prison followed by life probation.</li> </ul>
Sexual Battery	O.C.G.A. § 16-6-22.1	<p>Any person who:</p> <ol style="list-style-type: none"> <li>1. Intentionally</li> <li>2. Makes physical contact with the intimate parts of another's body<sup>61</sup></li> <li>3. Without consent.</li> </ol> <ul style="list-style-type: none"> <li>• It's not necessary to prove lack of consent to establish sexual battery if the victim is under age 16 and cannot legally consent to a sexual act.<sup>62</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• 1 to 5 years imprisonment if the victim is a child under age 16.</li> <li>• In all other cases, high and aggravated misdemeanor penalty for the first offense, and 1 to 5 years imprisonment for subsequent offenses.</li> </ul>
Aggravated Sexual Battery	O.C.G.A. § 16-6-22.2	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Intentionally</li> <li>2. Penetrates the sexual organ or anus of another person</li> <li>3. With a foreign object<sup>63</sup></li> <li>4. Without consent.</li> </ol>

Aggravated Sexual Battery (Cont'd)	O.C.G.A. § 16-6-22.2	<ul style="list-style-type: none"> <li>• Even slight penetration will sustain a conviction.<sup>64</sup></li> <li>• “Foreign object” includes a finger or any body part other than a sexual organ.<sup>65</sup></li> <li>• Force is not an element of the offense of aggravated sexual battery.<sup>66</sup></li> <li>• Georgia’s rape shield statute applies.<sup>67</sup></li> <li>• It’s not necessary to prove lack of consent to establish sexual battery if the victim is under age 16 and cannot legally consent to a sexual act.<sup>68</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Imprisonment for life or a split sentence with not less than 25 years in prison followed by life probation.</li> </ul>
GEORGIA KIDNAPPING OFFENSES	RELEVANT LAW	ELEMENTS
CSEC victims are often abducted and held in confinement by their exploiters. The following statutes may be used to prosecute these activities.		
Kidnapping	O.C.G.A. § 16-5-40	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Without lawful authority</li> <li>2. Abducts or steals away another person, and</li> <li>3. Holds that person against her will.<sup>69</sup></li> </ol> <ul style="list-style-type: none"> <li>• “Carrying away,” or moving the victim, is an element of kidnapping. Courts use a 4-factor test to determine whether this element is met: (1) the duration of the movement; (2) whether the movement occurred during the commission of a separate offense; (3) whether the movement was an inherent part of that separate offense; and (4) whether the movement itself presented a significant danger to the victim independent of the danger posed by the separate offense.<sup>70</sup></li> <li>• When the victim’s movement is “merely incidental” to another offense, the carrying away requirement is not met.<sup>71</sup></li> <li>• Force is not required, but the defendant must hold the victim against her will.<sup>72</sup></li> <li>• There is no minimum amount of time that a victim must be held.<sup>73</sup></li> <li>• Kidnapping with bodily injury requires only that an injury, no matter how slight, occur during the kidnapping incident, either during the abduction or afterward.<sup>74</sup></li> </ul>

Kidnapping (Cont'd)	O.C.G.A. § 16-5-40	<u>Penalty</u> <ul style="list-style-type: none"> <li>• 10 to 20 years imprisonment, if the victim is age 14 or older.</li> <li>• Imprisonment for life or a split sentence with at least 25 years in prison followed by life probation if the victim is younger than age 14.</li> <li>• Life imprisonment if the kidnapping was for ransom or if bodily injury resulted.<sup>75</sup></li> </ul>
False Imprisonment	O.C.G.A. § 16-5-41	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Without legal authority</li> <li>2. Arrests, confines, or detains a person</li> <li>3. Against that person's will.</li> </ol> <ul style="list-style-type: none"> <li>• The difference between kidnapping and false imprisonment is that kidnapping involves the additional element of carrying away.<sup>76</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Split sentence, with at least 1 year in prison followed by at least 1 year probation if the victim is less than age 14 and is not the defendant's child.</li> <li>• In all other cases, 1 to 10 years imprisonment.</li> </ul>
Interference with Custody of a Child	O.C.G.A. § 16-5-45	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Without lawful authority <ol style="list-style-type: none"> <li>a. Knowingly or recklessly takes or entices child<sup>77</sup> away from her lawful custodian,<sup>78</sup> or</li> <li>b. Knowingly harbors a child who has absconded.<sup>79</sup></li> </ol> </li> </ol> <ul style="list-style-type: none"> <li>• The State can simultaneously charge a defendant with interference with custody, contributing to delinquency of a minor, child sexual exploitation, and sodomy without creating a double jeopardy problem.<sup>80</sup></li> <li>• At least one Georgia court has held that a defendant does not commit interference with custody when he takes a child during the school day, because the child would not normally be with her parent or guardian during that time.<sup>81</sup></li> <li>• There is a limited exception to for runaway shelters that are registered or licensed and provide short-term emergency shelter, so long as a parent or the Division of Family and Children Services is notified within 72 hours.<sup>82</sup></li> </ul>

Interference with Custody of a Child (Cont'd)	O.C.G.A. § 16-5-45	<u>Penalty</u> <ul style="list-style-type: none"> <li>• \$200 - \$500 fine and/or 1 to 5 months in jail for the first offense,</li> <li>• \$400 - \$1,000 fine and/or 3 months to 1 year in jail for the second offense, and</li> <li>• 1 to 5 years imprisonment for subsequent offenses or for interstate offenses.</li> </ul>
GEORGIA VIOLENT OFFENSES	RELEVANT LAW	ELEMENTS
CSEC victims are routinely subjected to violence by pimps, panderers and other adults. Violence is used to maintain control over the children and force them to engage in prostitution. Many children are killed. Georgia has many state statutes that penalize violent crimes.		
Murder	O.C.G.A. § 16-5-1	<p>There are 3 types of murder in Georgia: malice murder, implied malice murder, and felony murder.</p> <p><u>Malice murder</u> Any person who</p> <ol style="list-style-type: none"> <li>1. Unlawfully and</li> <li>2. With malice aforethought</li> <li>3. Causes death of another person.</li> </ol> <ul style="list-style-type: none"> <li>• Premeditation is not an element of murder.<sup>83</sup></li> <li>• Malice aforethought is the intent to kill. It can be formed instantly.<sup>84</sup></li> </ul> <p><u>Implied malice murder</u><sup>85</sup> Any person who</p> <ol style="list-style-type: none"> <li>1. Unlawfully</li> <li>2. Without considerable provocation and</li> <li>3. With a reckless disregard for life</li> <li>4. Causes the death of another person.</li> </ol> <p><u>Felony murder</u> Any person who</p> <ol style="list-style-type: none"> <li>1. Intentionally<sup>86</sup></li> <li>2. Commits an inherently dangerous felony,<sup>87</sup> and</li> <li>3. During the commission of the felony</li> </ol>

Murder (Cont'd)	O.C.G.A. § 16-5-1	<p>4. Causes the death of another person.</p> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Death, life imprisonment without parole, or life imprisonment with parole.</li> </ul>
Voluntary Manslaughter	O.C.G.A. § 16-5-2	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Intentionally</li> <li>2. Causes the death of another person</li> <li>3. As a result of sudden, violent, and irresistible passion</li> <li>4. Caused by a serious provocation that would excite such passion in a reasonable person.</li> </ol> <ul style="list-style-type: none"> <li>• The defendant commits murder, not voluntary manslaughter, if there is an “interval between the provocation and the killing sufficient for reason and humanity to be heard.”<sup>88</sup></li> <li>• Words alone are not sufficient provocation to reduce a killing from murder to manslaughter.<sup>89</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• 1 to 20 years imprisonment.</li> </ul>
Involuntary Manslaughter	O.C.G.A. § 16-5-3	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Commits <ol style="list-style-type: none"> <li>a. An unlawful act that is not a felony,<sup>90</sup> or</li> <li>b. A lawful act in an unlawful manner likely to cause death or great bodily harm,<sup>91</sup> and</li> </ol> </li> <li>2. In the commission of the act</li> <li>3. Unintentionally causes the death of another person.</li> </ol> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• 1 to 10 years imprisonment for unlawful act manslaughter.</li> <li>• Misdemeanor penalty for unlawful manner manslaughter.</li> </ul>

Simple Assault	O.C.G.A. § 16-5-20	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Intentionally <ol style="list-style-type: none"> <li>a. Attempts to commit a violent injury, or</li> <li>b. Puts a person in reasonable apprehension of immediately receiving a violent injury.</li> </ol> </li> </ol> <ul style="list-style-type: none"> <li>• The defendant must have taken a “substantial step” toward injuring the victim.<sup>92</sup></li> <li>• As soon as any act is done towards committing an injury, an assault occurs.<sup>93</sup></li> <li>• If the defendant makes an attempt to injure the victim, it does not matter whether the victim was aware of the attempt.<sup>94</sup></li> <li>• The defendant can put a victim in reasonable apprehension of harm, even without making an explicit verbal or physical threat to harm the victim. For example, a defendant was convicted of assault after he tried to convince a young woman to work as a prostitute and masturbated in front of her.<sup>95</sup></li> <li>• Actual injury need not be shown.<sup>96</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Misdemeanor penalty in most cases.</li> <li>• High and aggravated misdemeanor penalty in certain circumstances, including an assault committed: <ul style="list-style-type: none"> <li>○ Against a pregnant female,</li> <li>○ In a public transit vehicle or station,<sup>97</sup> or</li> <li>○ Between persons living or formerly living in the same household.</li> </ul> </li> </ul>
Aggravated Assault	O.C.G.A. § 16-5-21	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Assaults another person <ol style="list-style-type: none"> <li>a. With the intent to murder, rape or rob, or</li> <li>b. With a deadly weapon or object that is likely to result in serious bodily injury;<sup>98</sup> or</li> <li>c. By discharging a firearm from a vehicle at a person.</li> </ol> </li> </ol> <ul style="list-style-type: none"> <li>• A defendant commits aggravated assault if he viciously beats or chokes another person, even if uses just his hands and feet.<sup>99</sup></li> </ul>

Aggravated Assault (Cont'd)	O.C.G.A. § 16-5-21	<p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• 1 to 20 years imprisonment generally,</li> <li>• 3 to 20 years imprisonment when committed in a public transit vehicle or station,<sup>100</sup></li> <li>• 3 to 20 years imprisonment when committed between persons living or formerly living in the same household,</li> <li>• 5 to 20 years imprisonment when committed on a student in a school safety zone,<sup>101</sup> or</li> <li>• 25 to 50 years imprisonment when committed with the intent to rape a child under age 14.</li> </ul>
Terroristic Threats	O.C.G.A. § 16-11-37	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Threatens to commit a crime of violence</li> <li>2. To terrorize another person<sup>102</sup></li> <li>3. With intent to cause, or in reckless disregard of the risk of causing, terror.<sup>103</sup></li> </ol> <ul style="list-style-type: none"> <li>• This statute prohibits communicating a threat to commit violence when the threat is designed to terrorize another person. When the communication is made, the crime is complete.<sup>104</sup></li> <li>• This offense differs from simple assault, because the state need not prove that the defendant made a substantial step toward completing the crime, nor that the victim was in reasonable apprehension of the crime.<sup>105</sup></li> <li>• This statute applies even when the terroristic threat is not directly heard by the victim.<sup>106</sup></li> <li>• A non-verbal threat, such as displaying a handgun under threatening circumstances, may constitute a terroristic threat.<sup>107</sup></li> <li>• The defendant may be convicted for making a terroristic threat when his accomplice was the one who actually voiced the threat.<sup>108</sup></li> <li>• The victim's testimony must be corroborated.<sup>109</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Fine of up to \$1,000 and/or 1 to 5 years imprisonment for most terroristic threats.</li> <li>• \$50,000 fine and/or 5 to 10 years imprisonment, if the threat was made with intent to retaliate against a person cooperating with law enforcement or appearing as a witness.</li> </ul>

Simple Battery	O.C.G.A. § 16-5-23	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Intentionally <ol style="list-style-type: none"> <li>a. Makes physical contact with another in an insulting or provoking manner, or</li> <li>b. Causes physical harm to another.</li> </ol> </li> </ol> <ul style="list-style-type: none"> <li>• Simple battery encompasses all forms of prohibited contact and is not limited to contact that causes substantial or visible harm.<sup>110</sup></li> <li>• For a simple battery, mere pain is sufficient to show physical harm.<sup>111</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Misdemeanor penalty in most cases.</li> <li>• High and aggravated misdemeanor penalty when committed: <ul style="list-style-type: none"> <li>○ Against a pregnant female, or</li> <li>○ In a public transit vehicle or station, or</li> <li>○ Between persons living or formerly living in the same household.</li> </ul> </li> </ul>
Battery	O.C.G.A. § 16-5-23.1	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Intentionally</li> <li>2. Causes substantial physical harm or visible bodily harm.<sup>112</sup></li> </ol> <ul style="list-style-type: none"> <li>• The elements of battery are usually met when a defendant intentionally struck a victim.<sup>113</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Misdemeanor penalty on most first offenses.</li> <li>• 10 days to 1 year in jail for a second battery against the same victim.</li> <li>• 1 to 5 years imprisonment for a third battery against the same victim.</li> <li>• For family violence battery:<sup>114</sup> <ul style="list-style-type: none"> <li>○ Misdemeanor penalty for the first offense,</li> <li>○ 1-5 years imprisonment for subsequent offenses.</li> </ul> </li> <li>• High and aggravated misdemeanor penalty when committed: <ul style="list-style-type: none"> <li>○ Against a pregnant female, or</li> <li>○ In a public transit vehicle or station.</li> </ul> </li> </ul>

Aggravated Battery	O.C.G.A. § 16-5-24	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Maliciously<sup>115</sup></li> <li>2. Causes bodily harm by               <ol style="list-style-type: none"> <li>a. Depriving a person of a member of her body or rendering it useless; or</li> <li>b. Seriously disfiguring the person.<sup>116</sup></li> </ol> </li> </ol> <ul style="list-style-type: none"> <li>• Serious disfigurement requires an injury more severe than the visible wounds required for battery.<sup>117</sup></li> <li>• Disfigurement need not be permanent.<sup>118</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• 1 to 20 years imprisonment in most cases.</li> <li>• 5 to 20 years imprisonment when occurring:               <ul style="list-style-type: none"> <li>○ In a public transit vehicle or station, or</li> <li>○ On a student in school zone.</li> </ul> </li> <li>• 3 to 20 years imprisonment when occurring between persons in the same household.</li> </ul>
Reckless Conduct Causing Harm to or Endangering the Bodily Safety of Another	O.C.G.A. § 16-5-60	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Causes harm or endangers the safety of another person</li> <li>2. By consciously disregarding<sup>119</sup></li> <li>3. A substantial and unjustifiable risk.</li> </ol> <p>or</p> <p>Any person who</p> <ol style="list-style-type: none"> <li>1. Knowing he is infected with HIV, and</li> <li>2. Without disclosing this fact               <ol style="list-style-type: none"> <li>a. Engages in sexual intercourse, oral sex or sodomy with another, or</li> <li>b. Offers to engage in sexual intercourse or sodomy for money, or</li> <li>c. Shares an IV needle or syringe.</li> </ol> </li> </ol> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Misdemeanor penalty for reckless conduct not involving transmission of HIV.</li> <li>• 1 to 10 years imprisonment for reckless conduct involving transmission of HIV.</li> </ul>

Pointing or Aiming a Gun or Pistol at Another	O.C.G.A. § 16-11-102	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Intentionally and</li> <li>2. Without legal justification</li> <li>3. Points a gun, loaded or unloaded,</li> <li>4. At another.</li> </ol> <ul style="list-style-type: none"> <li>• If the victim is placed in reasonable apprehension of immediate violent injury by the pointing of the firearm, the defendant commits the felony of aggravated assault rather than a misdemeanor violation under this statute.<sup>120</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Misdemeanor penalty.</li> </ul>
Possession of a Firearm or Knife During Commission of or Attempt to Commit Certain Crimes	O.C.G.A. § 16-11-106	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Has a firearm<sup>121</sup> or knife with a blade of 3 or more inches</li> <li>2. On his body or within arm's reach</li> <li>3. While committing or attempting to commit certain felonies, including violent crimes against the person of another.<sup>122</sup></li> </ol> <ul style="list-style-type: none"> <li>• The defendant must have “immediate access” to the firearm or knife.<sup>123</sup></li> <li>• A violation of this statute is an offense separate from the underlying felony.<sup>124</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• 5 years imprisonment for the first offense, to run consecutively to any other sentence the defendant receives.</li> <li>• 10 years imprisonment for subsequent offenses.</li> </ul>
Harassing phone calls	O.C.G.A. § 16-11-39.1	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Repeatedly telephones a person</li> <li>2. For the purposes of annoying, harassing or molesting</li> <li>3. That person or the person's family.</li> </ol> <p>or</p> <p>Any person who</p> <ol style="list-style-type: none"> <li>1. Uses the telephone</li> </ol>

Harassing phone calls (Cont'd)	O.C.G.A. § 16-11-39.1	<p>2. To threaten bodily harm.</p> <p>or</p> <p>Any person who knowingly permits his telephone to be used for these purposes.<sup>125</sup></p> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Misdemeanor penalty.</li> </ul>
Disorderly conduct	O.C.G.A. § 16-11-39	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Acts in a violent or tumultuous manner so that: <ol style="list-style-type: none"> <li>a. Another person reasonably fears for her physical safety, or</li> <li>b. The person's property is in danger of being destroyed or damaged.</li> </ol> </li> </ol> <p>or</p> <p>Any person who</p> <ol style="list-style-type: none"> <li>1. Without provocation, uses <ol style="list-style-type: none"> <li>a. "Fighting words," which are abusive words that tend to provoke violence, or</li> <li>b. Obscene language around a child under age 14 that threatens an immediate breach of the peace.<sup>126</sup></li> </ol> </li> </ol> <ul style="list-style-type: none"> <li>• In evaluating whether the defendant has used "fighting words," the court must look not just at the words used, but also the circumstances and context in which they were used.<sup>127</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Misdemeanor penalty.</li> </ul>

GEORGIA VIOLENT OFFENSES INVOLVING A PREGNANT VICTIM	RELEVANT LAW	ELEMENTS
It is not unusual for children who are commercially sexually exploited to become pregnant. Therefore, criminal statutes that punish assault, battery and homicide of a fetus may apply.		
Feticide	O.C.G.A. § 16-5-80	<p>Anyone who</p> <ol style="list-style-type: none"> <li>1. Intentionally, and</li> <li>2. Without legal justification,</li> <li>3. Causes the death of an unborn child<sup>128</sup> <ol style="list-style-type: none"> <li>a. By an injury to the mother which would be murder if it resulted in the death of the mother,<sup>129</sup> or</li> <li>b. In the commission of a felony.</li> </ol> </li> </ol> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Imprisonment for life.</li> </ul>
Voluntary Manslaughter of an Unborn Child	O.C.G.A. § 16-5-80	<p>Anyone who</p> <ol style="list-style-type: none"> <li>1. Causes the death of an unborn child</li> <li>2. As the result of a sudden, violent and irresistible passion</li> <li>3. Resulting from serious provocation that would excite passion in a reasonable person.</li> </ol> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• 1 to 20 years imprisonment.</li> </ul>
Assault On An Unborn Child	O.C.G.A. § 16-5-28	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Without legal justification</li> <li>2. Attempts to inflict violent injury</li> <li>3. On an unborn child.</li> </ol> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Misdemeanor penalty.</li> </ul>

Battery Of An Unborn Child	O.C.G.A. § 16-5-29	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Without legal justification</li> <li>2. Intentionally</li> <li>3. Inflicts physical harm</li> <li>4. On unborn child.</li> </ol> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Misdemeanor penalty.</li> </ul>
GEORGIA PORNOGRAPHY OFFENSES	RELEVANT LAW	ELEMENTS
CSEC offenders may film their child victims engaging in sexual acts, thereby creating child pornography. Additionally, exploiters commonly provide pornography to the children, in order to educate them about the acts they are expected to perform. State law punishes these activities severely.		
Sexual Exploitation of Children	O.C.G.A. § 16-12-100	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Knowingly uses, entices, or coerces a minor to</li> <li>2. Engage in sexually explicit conduct<sup>130</sup></li> <li>3. For the purpose of <ol style="list-style-type: none"> <li>a. Producing a visual medium<sup>131</sup> of the conduct, or</li> <li>b. A performance<sup>132</sup></li> </ol> </li> <li>4. Knowing the victim is a child under age 18.</li> </ol> <p>or</p> <p>Any person having custody or control of a child under age 18 who</p> <ol style="list-style-type: none"> <li>1. Knowingly</li> <li>2. Permits that child</li> <li>3. To participate in the above.</li> </ol> <p>or</p> <p>Any person who</p> <ol style="list-style-type: none"> <li>1. Knowingly <ol style="list-style-type: none"> <li>a. Creates or reproduces,</li> </ol> </li> </ol>

Sexual Exploitation of Children (Cont'd)	O.C.G.A. § 16-12-100	<ul style="list-style-type: none"> <li>b. Promotes, advertises, sells, distributes, or possesses with intent to sell or distribute,</li> <li>c. Brings into Georgia, or</li> <li>d. Possesses</li> </ul> <ol style="list-style-type: none"> <li>2. A visual medium depicting a child or a portion of the child's body</li> <li>3. Engaged in sexually explicit conduct</li> <li>4. Knowing the child is under age 18.</li> </ol> <ul style="list-style-type: none"> <li>• The state must prove that the defendant knew the victim was under age 18.<sup>133</sup></li> <li>• The state must show that the depiction was of an actual minor engaging in sexually explicit conduct.<sup>134</sup></li> <li>• Alternatively , the state may prove that computer technology was used to “morph” innocent images of real children or their body parts so that the children appeared to be engaged in sexual activity.<sup>135</sup></li> <li>• “Visual medium” includes computer code that produces pictures when interpreted by software.<sup>136</sup></li> <li>• Provision penalizing possession of child pornography for in-home viewing is constitutional.<sup>137</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• 5 to 20 years imprisonment, and</li> <li>• Fine up to \$100,000, unless the defendant is a member of the victim's family, and</li> <li>• Forfeiture of proceeds and any property used to facilitate the offense.</li> </ul>
Electronically Furnishing Obscene Material to Minors	O.C.G.A. § 16-12-100.1	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Electronically furnishes<sup>138</sup></li> <li>2. Obscene material that contains: <ol style="list-style-type: none"> <li>a. An image of sexually explicit nudity,<sup>139</sup> sexual conduct,<sup>140</sup> or sadomasochistic abuse<sup>141</sup> that is harmful to minors, or</li> <li>b. A description of sexual conduct, sexual excitement<sup>142</sup> or sadomasochistic abuse;</li> </ol> </li> <li>4. Knowing the victim is a child under age 18; and</li> <li>5. Knowing that the material is sexually explicit in nature.</li> </ol> <ul style="list-style-type: none"> <li>• The material must “lack serious literary, artistic, political, or scientific value and be harmful to minors, when taken as a whole.”<sup>143</sup></li> <li>• The material is harmful to minors when, taken as a whole, it “predominantly appeals</li> </ul>

		<p>to the prurient, shameful, or morbid interest of minors;" is patently offensive to prevailing community standards and lacks serious literary, artistic, political, or scientific value for minors.<sup>144</sup></p> <ul style="list-style-type: none"> <li>• The offensive portions must be more than a merely incidental part of the whole.<sup>145</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• High and aggravated misdemeanor penalty.</li> </ul>
Computer or Electronic Pornography	O.C.G.A. § 16-12-100.2	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Intentionally or willfully</li> <li>2. Uses a computer or other electronic device</li> <li>3. To create or disseminate an advertisement or identifying information</li> <li>4. For the purpose of offering or soliciting <ol style="list-style-type: none"> <li>a. Sexual conduct with the child under age 16, or</li> <li>b. A visual depiction of such conduct.</li> </ol> </li> </ol> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Fine of up to \$10,000 and 1 to 20 years imprisonment.</li> </ul>
Online Solicitation of a Child	O.C.G.A. § 16-12-100.2	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Intentionally or willfully</li> <li>2. Uses a computer or on-line service</li> <li>3. To solicit a child under age 16</li> <li>4. To engage in illegal sexual acts<sup>146</sup> or an unlawful sexual offense against a child.</li> </ol> <ul style="list-style-type: none"> <li>• The sole fact that an undercover operative or police officer was involved in the investigation of the offense is not a defense.<sup>147</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• High and aggravated misdemeanor penalty when the victim is age 14 or 15 and the defendant is no more than 3 years older than the victim.</li> <li>• In all other cases, fine of up to \$25,000 and 1 to 10 years imprisonment.</li> </ul>

Obscene Internet Contact with a Child	O.C.G.A. § 16-12-100.2	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Uses a computer or on-line service, including chat rooms and bulletin boards,</li> <li>2. To contact someone he or she knows is a child under age 16; and</li> <li>3. The contact involves explicit verbal descriptions of sexually explicit nudity, sexual conduct, sexual excitement, or sadomasochistic abuse,</li> <li>4. With the intent to arouse or satisfy the sexual desire of the child or the person.</li> </ol> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• High and aggravated misdemeanor penalty when the victim is age 14 or 15 and the defendant is no more than 3 years older than the victim.</li> <li>• In all other cases, fine of up to \$10,000 or 1 to 10 years imprisonment.</li> </ul>
Online Sexual Exploitation of a Child	O.C.G.A. § 16-12-100.2	<p>Any owner or operator of an online or electronic service who</p> <ol style="list-style-type: none"> <li>1. Intentionally or willingly</li> <li>2. Permits a subscriber</li> <li>3. To commit the offense of computer or electronic pornography, online solicitation of a child, or obscene internet contact with a child</li> <li>4. Knowing that such person intended to utilize such service to commit these crimes.</li> </ol> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• High and aggravated misdemeanor penalty.</li> </ul>
Obscene Telephone Contact with a Child	O.C.G.A. § 16-12-100.3	<p>Any person age 17 or older who</p> <ol style="list-style-type: none"> <li>1. Telephones</li> <li>2. A person he knows or should have known is under age 14, and</li> <li>3. Describes sexually explicit nudity, sexual conduct or excitement or sadomasochistic abuse</li> <li>4. With the intent to arouse or satisfy the sexual desire of the child or the person.</li> </ol> <ul style="list-style-type: none"> <li>• This statute applies only to voice messages, not to text messages.<sup>148</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Misdemeanor penalty for the first offense if the defendant is younger than age 21.</li> <li>• In all other cases, high and aggravated misdemeanor penalty for first offense.</li> <li>• 1 to 5 years imprisonment for subsequent offenses.</li> </ul>

Distributing Obscene Material	O.C.G.A. § 16-12-80	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. a. Disseminates, b. Offers to disseminate, or c. Possesses with intent to disseminate</li> <li>2. Obscene<sup>149</sup> material</li> <li>3. Knowing the obscene nature of the material.</li> </ol> <ul style="list-style-type: none"> <li>• The defendant must know that the material has obscene content, or at least know enough facts that would alert a reasonable and prudent person.<sup>150</sup></li> <li>• The defendant need not know the actual legal status of the material, just that it has a “suspect” nature.<sup>151</sup></li> <li>• Undeveloped photographs and the like are obscene materials, even though other acts are required to make the obscenity patent.<sup>152</sup></li> <li>• Material not otherwise obscene may be obscene if the defendant’s purpose is “commercial exploitation of erotica solely for the sake of their prurient appeal.”<sup>153</sup></li> <li>• A separate offense occurs each time an obscene film or other material is exhibited.<sup>154</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• High and aggravated misdemeanor penalty.</li> </ul>
Distributing Material Depicting Nudity or Sexual Conduct	O.C.G.A. § 16-12-81	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Sends unsolicited through the mail</li> <li>2. Material depicting nudity<sup>155</sup> or sexual conduct<sup>156</sup></li> <li>3. Without the required disclaimer on the envelope or container.<sup>157</sup></li> </ol> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• 1 to 3 years imprisonment.</li> </ul>

GEORGIA ORGANIZED CRIME OFFENSES	RELEVANT LAW	ELEMENTS
CSEC often occurs as organized crime, sometimes through sophisticated, multi-state and international networks, and sometimes through local street gangs. Several Georgia laws can be used to convict CSEC defendants of racketeering or criminal street gang activity and sentence them to substantial prison terms.		
Racketeer Influenced and Corrupt Organization (RICO)	O.C.G.A. § 16-14-4	<p>Any employee or associate of a lawful or unlawful enterprise<sup>158</sup> who</p> <ol style="list-style-type: none"> <li>1. Knowingly and voluntarily<sup>159</sup></li> <li>2. Participates in that enterprise</li> <li>3. Through a pattern of racketeering activity.</li> </ol> <p>or</p> <p>Any person who</p> <ol style="list-style-type: none"> <li>1. Acquires or maintains an interest in any enterprise, property or money</li> <li>2. Through a pattern of racketeering activity.</li> </ol> <p>or</p> <p>Any person who conspires or attempts to do the above.</p> <ul style="list-style-type: none"> <li>• A person engages in a “pattern of racketeering activity” when he: <ol style="list-style-type: none"> <li>a. Tries to further an illegal scheme or related schemes</li> <li>b. By committing, attempting to commit, or inducing another person to commit</li> <li>c. At least two related acts of racketeering, including <ul style="list-style-type: none"> <li>○ Pimping and pandering</li> <li>○ Kidnapping</li> <li>○ Homicide</li> <li>○ Assault and battery</li> <li>○ Distributing obscene materials,</li> <li>○ Forging identification documents, or</li> <li>○ Federal racketeering acts as defined in 18 U.S.C. § 1961.<sup>160</sup></li> </ul> </li> </ol> </li> <li>• The racketeering acts may be related despite having different objectives.<sup>161</sup></li> </ul>

Racketeer Influenced and Corrupt Organization (RICO) (Cont'd)	O.C.G.A. § 16-14-4	<ul style="list-style-type: none"> <li>• The state is not required to prove that all of the members of the enterprise knew of the others' existence, nor does it have to prove that the members' association had an "ascertainable structure."<sup>162</sup></li> <li>• The state also need not prove that each member in the enterprise had full knowledge of all facets and elements of the enterprise and all its members or actors.<sup>163</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Fine of up to \$25,000 or 3 times the value of whatever was gained from the organization, whichever is higher, and/or</li> <li>• 5 to 20 years imprisonment,<sup>164</sup> and</li> <li>• Forfeiture of any property used in or derived from the racketeering.<sup>165</sup></li> </ul>
Participation in Criminal Street Gang Activity <sup>166</sup>	O.C.G.A. § 16-15-4	<p>Any person employed by or associated with a gang who</p> <ol style="list-style-type: none"> <li>1. Knows about the gang's criminal activities,<sup>167</sup></li> <li>2. Intends to further the gang's criminal purposes or to gain or maintain a position in the gang,<sup>168</sup></li> <li>3. Actively participates in the gang's criminal activities<sup>169</sup> by committing any of the gang-related offenses identified in the statute,<sup>170</sup> such as: <ul style="list-style-type: none"> <li>• Rape,</li> <li>• Aggravated sodomy,</li> <li>• Statutory rape,</li> <li>• Aggravated sexual battery,</li> <li>• Encouraging a child to escape from custody,</li> <li>• Criminal trespass or damage related to gang-related graffiti</li> <li>• Any crime that involves violence or a weapon; or</li> <li>• Any racketeering activity as defined in Georgia's RICO statute.</li> </ul> </li> </ol> <p>or</p> <p>Any gang leader or manager who</p> <ol style="list-style-type: none"> <li>1. Engages in or conspires to engage in criminal gang activity.</li> </ol> <p>or</p>

Participation in Criminal Street Gang Activity (Cont'd)	O.C.G.A. § 16-15-4	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Acquires money or property through gang activity or its proceeds; or</li> <li>2. Causes a person to participate in a gang; or</li> <li>3. Makes threats to: <ol style="list-style-type: none"> <li>a. Deter or punish a person from helping a member leave a gang;</li> <li>b. Punish or retaliate against someone for refusing to join a gang; or</li> <li>c. Prevent or punish someone from providing information, statements or testimony about a gang.</li> </ol> </li> </ol> <ul style="list-style-type: none"> <li>• A criminal street gang is a formal or informal group of 3 or more people that engages in criminal gang activity.<sup>171</sup></li> <li>• An isolated offense by a member is not enough; there must be a specific intent to further the gang's objectives.<sup>172</sup></li> <li>• These offenses may occur within Georgia or outside of Georgia.<sup>173</sup></li> </ul> <p><u>Penalties</u></p> <ul style="list-style-type: none"> <li>• Fine of between \$10,000 - \$15,000 and/or 5 to 15 years imprisonment, and</li> <li>• An additional 10 years imprisonment for gang leaders, to run consecutively with any other sentence, and</li> <li>• An additional 3 to 10 years imprisonment for acting to bring others into the gang or to prevent them from leaving, and</li> <li>• A ban on any contact or association with gang members.</li> </ul>
Loitering or prowling <sup>174</sup>	O.C.G.A. § 16-11- 36	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Is in a place</li> <li>2. At a time or in a manner not usual for law-abiding individuals</li> <li>3. And his presence warrants reasonable alarm or immediate concern</li> <li>4. For the safety of persons or property</li> </ol> <ul style="list-style-type: none"> <li>• Alarm is warranted when the defendant's presence threatens "peace and order."</li> <li>• Loitering need not be directly related to violent activity. Loitering for purposes of drug-dealing is sufficient.<sup>175</sup> Likewise, loitering for purposes of prostitution should also be sufficient.</li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Misdemeanor penalty.</li> </ul>

GEORGIA FALSE IDENTIFICATION OFFENSES	RELEVANT LAW	ELEMENTS
Many CSEC victims are given false identification documents to hide their identities and to make them appear older than they truly are. Children who are brought to the U.S. illegally are often given fraudulent entry documents. The following state statutes penalize these offenses.		
Forgery (First Degree)	O.C.G.A. § 16-9-1	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Knowingly</li> <li>2. Makes, alters, or possesses a fictitious writing,<sup>176</sup> and</li> <li>3. Utters or delivers it,</li> <li>4. With intent to defraud.</li> </ol> <ul style="list-style-type: none"> <li>• The essence of forgery is that the writing must purport to be the writing of one other than the person making it.<sup>177</sup></li> <li>• “Writing” includes printed documents or other types of recorded information, as well as money, credit cards, and various types of identification.<sup>178</sup></li> <li>• The defendant may be guilty of forgery as long as there is some connection between him and the uttering of the forged paper.<sup>179</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• 1 to 10 years imprisonment.</li> </ul>
Forgery (Second Degree)	O.C.G.A. § 16-9-2	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Knowingly</li> <li>2. Makes, alters or possesses any fictitious writing</li> <li>3. With the intent to defraud.</li> </ol> <ul style="list-style-type: none"> <li>• Forgery in the second degree is the same as forgery in the first degree, except that uttering or delivering the forged paper is not an element of the crime.<sup>180</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• 1 to 5 years imprisonment.</li> </ul>

<p>Manufacturing, Selling, or Distributing False Identification Documents</p>	<p>O.C.G.A. § 16-9-4</p>	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Knowingly</li> <li>2. Makes, alters, sells or distributes or possesses with intent to sell or distribute <ol style="list-style-type: none"> <li>a. Any false or altered identification document (ID),<sup>181</sup></li> <li>b. Any false or altered government ID, in furtherance of a conspiracy or attempt to commit a felony, or</li> <li>c. Any government ID without the government's consent<sup>182</sup></li> </ol> </li> </ol> <p>or</p> <p>Any person who</p> <ol style="list-style-type: none"> <li>1. Knowingly possesses <ol style="list-style-type: none"> <li>a. A false ID; or</li> <li>b. Another person's ID without that person's consent.</li> </ol> </li> </ol> <ul style="list-style-type: none"> <li>• The intent to defraud is not an element of this offense, but it is an element of forgery.<sup>183</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• For offenses involving simple possession: <ul style="list-style-type: none"> <li>○ Misdemeanor penalty for first offense, and</li> <li>○ Fine of up to \$25,000, and/or up to 3 years imprisonment for subsequent offenses.</li> </ul> </li> <li>• For all other offenses: <ul style="list-style-type: none"> <li>○ Fine of up to \$100,000 and/or 1 to 5 years imprisonment for each offense.</li> </ul> </li> <li>• For all offenses: <ul style="list-style-type: none"> <li>○ Forfeiture of any property used or intended to be used in any violation of this section.</li> <li>○ Fine of up to \$100,000, and/or 3 to 10 years imprisonment for offenses with 3 or more documents.</li> </ul> </li> </ul>
---	--------------------------	--

Identity Theft <sup>184</sup>	O.C.G.A. § 16-9-121	<p>Any person who willfully and fraudulently</p> <ol style="list-style-type: none"> <li>1. Uses identifying information of another person, a child in his custody or a deceased person; or</li> <li>2. Creates, uses or possesses with the intent to use <ol style="list-style-type: none"> <li>a. Identifying information of a fictitious person, or</li> <li>b. Fictitious identifying information of a real person</li> </ol> </li> </ol> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• 1 to 10 years imprisonment for the first offense, and</li> <li>• 3 to 15 years imprisonment for subsequent offenses.</li> </ul>
GEORGIA EVASION OF LAW OFFENSES	RELEVANT LAW	ELEMENTS
Georgia law also punishes those who help sexual offenders, including pimps and panderers, elude the law. Sentences can be up to 20 years in prison.		
Helping a Sexual Offender Elude the Law	O.C.G.A. § 16-6-25	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Harbors, conceals or provides false information to law enforcement</li> <li>2. To assist a sex offender in eluding law enforcement</li> <li>3. Knowing or having reason to know that</li> <li>4. The offender is evading sex offender registration requirements;<sup>185</sup></li> </ol> <ul style="list-style-type: none"> <li>• Indictment must specify whether the defendant harbored or concealed or provided false information about the unregistered sex offender.<sup>186</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• 5 to 20 years imprisonment.</li> </ul>
Hindering Apprehension or Punishment of A Felon	O.C.G.A. § 16-10-50	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Harbors, conceals, or destroys evidence of a felony</li> <li>2. To hinder apprehension or punishment of a person</li> <li>3. Knowing or having reason to know that the person is guilty of that felony.</li> </ol> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• 1 to 5 years imprisonment.</li> </ul>

FEDERAL PIMPING, PANDERING, AND SEX TRAFFICKING OFFENSES	RELEVANT LAW	ELEMENTS
Children are often transported between states and countries to be prostituted or engaged in other sexual activities, such the making of child pornography. Adult predators also travel across state and country lines to engage in sex with the children. The Mann Act and more recent federal anti-trafficking statutes provide substantial penalties for these activities.		
Sex Trafficking <sup>187</sup>	18 U.S.C. § 1591	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Knowingly</li> <li>2. Recruits, entices, harbors, transports, provides, obtains, or maintains a child under age 18</li> <li>3. In interstate<sup>188</sup> or foreign commerce or on federal grounds<sup>189</sup></li> <li>4. Knowing, or in reckless disregard of the fact, that: <ol style="list-style-type: none"> <li>a. The victim is a child</li> <li>b. Who will be caused to engage in a commercial sex act</li> <li>c. With or without use of force, threats, fraud, or coercion.</li> </ol> </li> </ol> <p>or</p> <p>Any person who benefits financially by participating in a child sex trafficking venture.<sup>190</sup></p> <ul style="list-style-type: none"> <li>• “Commercial sex act” means any sex act for which anything of value is exchanged.<sup>191</sup></li> <li>• The Government need not prove that the defendant knew the victim was under age 18 if the defendant had a “reasonable opportunity to observe” the victim.<sup>192</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• 15 years to life imprisonment if the defendant used force, threats of force, fraud, or coercion, or the victim was under age 14;</li> <li>• 10 years to life imprisonment if the defendant did not use force, threats of force, fraud or coercion, or the victim was between the ages of 14 and 18.</li> <li>• Up to 20 years imprisonment or fine or both for obstructing or attempting to obstruct enforcement or investigations under this statute.</li> <li>• Forfeiture of property used in or derived from trafficking.<sup>193</sup></li> </ul>

Trafficking with Respect to Involuntary Servitude or Forced Labor	18 U.S.C. § 1590	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Knowingly</li> <li>2. Recruits, harbors, transports, provides or obtains another person</li> <li>3. In violation of statutes against slavery, involuntary servitude or forced labor.</li> </ol> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Fine<sup>194</sup> and/or up to 20 years imprisonment, or</li> <li>• Fine and/or up to life in prison if the defendant commits or attempts to commit: <ul style="list-style-type: none"> <li>○ Kidnapping,</li> <li>○ Aggravated sexual abuse, or</li> <li>○ Homicide.</li> </ul> </li> <li>• Forfeiture of property used in or derived from trafficking.</li> </ul>
Interstate Transportation of A Person for Purposes of Prostitution (also known as the Mann Act)	18 U.S.C. § 2421 <sup>195</sup>	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Knowingly</li> <li>2. Transports or attempts to transport any person in interstate or foreign commerce</li> <li>3. With the intent that the person engage in prostitution or other criminal sexual activity.</li> </ol> <ul style="list-style-type: none"> <li>• It is no defense that the victim consented to be transported across state lines.<sup>196</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Fine and/or up to 10 years imprisonment.</li> </ul>
Coercion and Enticement of Individuals to Travel Interstate for Purpose of Prostitution (Sex Tourism)	18 U.S.C. § 2422	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Knowingly</li> <li>2. Persuades, induces, coerces or entices another person</li> <li>3. To travel in interstate or foreign commerce to engage in prostitution or other criminal sexual activity.</li> </ol> <p>or</p> <p>Anyone who</p> <ol style="list-style-type: none"> <li>1. Knowingly</li> <li>2. Persuades, induces, coerces or entices a child under age 18</li> </ol>

Coercion and Enticement of Individuals to Travel Interstate for Purpose of Prostitution (Cont'd)	18 U.S.C. § 2422	<p>3. To engage in prostitution or criminal sexual activity</p> <p>4. By using the mail, internet or other interstate means or while on federal grounds.</p> <ul style="list-style-type: none"> <li>• It is no defense that the victim consented to be transported across state lines.<sup>197</sup></li> <li>• The defendant needs to have taken a substantial step toward persuading the victim, which must include some kind of communication with the victim.<sup>198</sup></li> <li>• The Government must prove that the defendant believed the victim was under age 18, but the victim need not truly be under-age.<sup>199</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Fine and/or up to 20 years imprisonment for the first type of offense.</li> <li>• Fine of up to \$250,000 and imprisonment for 10 years to life for the second type of offense.</li> </ul>
Transportation of Children for Prostitution (Child Sex Tourism)	18 U.S.C. § 2423	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Knowingly</li> <li>2. Transports a child under age 18 in interstate or foreign commerce</li> <li>3. With intent that the child engage in prostitution or other criminal sexual activity.</li> </ol> <p>or</p> <p>Any person who</p> <ol style="list-style-type: none"> <li>1. Travels in interstate or foreign commerce to engage in illicit sexual conduct; or</li> <li>2. Travels to a foreign place and engages in illicit sexual conduct.</li> </ol> <p>or</p> <p>Any person who</p> <ol style="list-style-type: none"> <li>1. For financial gain</li> <li>2. Facilitates travel of a person in interstate or foreign commerce</li> <li>3. Knowing the person is traveling to engage in illicit sexual conduct.</li> </ol> <ul style="list-style-type: none"> <li>• “Illicit sexual conduct” is a commercial sex act with a child under age 18 or any other sexual act<sup>200</sup> with a child that would violate federal law if it occurred in the U.S.<sup>201</sup></li> <li>• It is a defense that defendant reasonably believed the person with whom he engaged in the commercial sex act was age 18 or older.<sup>202</sup></li> </ul>

Transportation of Children for Prostitution (Cont'd)	18 U.S.C. § 2423	<u>Penalty</u> <ul style="list-style-type: none"> <li>• Fine and imprisonment for 10 years to life for transporting a child for sex, or</li> <li>• Fine and/or up to 30 years imprisonment for other offenses.</li> </ul>
Registration of Aliens Involved in Prostitution	18 U.S.C. § 2424	Any person who <ol style="list-style-type: none"> <li>1. Harbors an alien for the purpose of prostitution or other immoral purpose, and</li> <li>2. Fails to file required information about the alien with federal immigration authorities, or knowingly falsifies that information.<sup>203</sup></li> </ol> <u>Penalty</u> <ul style="list-style-type: none"> <li>• Fine and/or up to 10 years imprisonment.</li> </ul>
Use of Interstate Facilities to Transmit Information about a Child	18 U.S.C. § 2425	Any person who <ol style="list-style-type: none"> <li>1. Transmits a child's name, address, phone number, social security number, or email address</li> <li>2. Through the mail, internet or other means of interstate commerce, or while on federal grounds</li> <li>3. To entice, offer, or solicit a person to engage in criminal sexual activity with the child</li> <li>4. Knowing that the child is under age 16.</li> </ol> <u>Penalty</u> <ul style="list-style-type: none"> <li>• Fine and/or up to 5 years imprisonment.</li> </ul>
<b>FEDERAL SEXUAL OFFENSES</b>	<b>RELEVANT LAW</b>	<b>ELEMENTS</b>
The sex acts involved in CSEC often constitute sexual abuse. If the abuse occurs on federal lands, federal sex abuse statutes apply.		
Aggravated Sexual Abuse	18 U.S.C. § 2241	Any person who <ol style="list-style-type: none"> <li>1. Knowingly</li> <li>2. Causes another person</li> <li>3. To engage in a sexual act by <ol style="list-style-type: none"> <li>a. Using force or restraint</li> <li>b. Putting that person in fear of anyone's death, serious bodily injury or kidnapping, or</li> <li>c. Rendering that person unconscious or using a drug to impair her abilities</li> </ol> </li> <li>4. While on federal grounds.</li> </ol>

Aggravated Sexual Abuse (Cont'd)	18 U.S.C. § 2241	<u>Penalty</u> <ul style="list-style-type: none"> <li>Fine and/or imprisonment for any term of years or life.</li> </ul>
Aggravated Sexual Abuse Of A Child	18 U.S.C. § 2241	<p>Any person who</p> <ol style="list-style-type: none"> <li>Crosses state lines</li> <li>With intent to engage in a sexual act with a child under age 12.</li> </ol> <p>or</p> <p>Any person who</p> <ol style="list-style-type: none"> <li>Knowingly</li> <li>Engages in a sexual act with a <ol style="list-style-type: none"> <li>Child under age 12</li> <li>Child between ages 12 and 16 through use of force, fear, or drugging</li> </ol> </li> <li>While on federal grounds.</li> </ol> <ul style="list-style-type: none"> <li>The defendant must be at least 4 years older than any victim who is over age 12.<sup>204</sup></li> <li>The “[g]overnment need not prove that the defendant knew that the other person engaging the sexual act had not yet attained the age of 12 years.”<sup>205</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>Fine and imprisonment for 30 years to life for first offense.</li> <li>Life imprisonment for subsequent offenses.</li> </ul>
Sexual Abuse	18 U.S.C. § 2242	<p>Any person who</p> <ol style="list-style-type: none"> <li>Knowingly</li> <li>Causes another person</li> <li>To engage in a sexual act by <ol style="list-style-type: none"> <li>Putting the person in fear, but not of death, serious injury or kidnapping</li> <li>Taking advantage of the person’s incapacity to refuse or understand the situation</li> </ol> </li> <li>While on federal grounds.</li> </ol> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>Fine and imprisonment for any term of years or for life.</li> </ul>

Failure to Register as a Sex Offender	18 U.S.C. § 2250 <sup>206</sup>	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Is required to register under the Sex Offender Registration and Notification Act<sup>207</sup></li> <li>2. Travels in interstate or foreign commerce, and</li> <li>3. Knowingly fails to register or update his registration.</li> </ol> <ul style="list-style-type: none"> <li>• It is an affirmative defense that the defendant was prevented from complying by “uncontrollable circumstances.”<sup>208</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Fine and/or imprisonment for up to 10 years, and</li> <li>• An additional penalty of 5 to 30 years imprisonment if the defendant also committed a crime of violence.</li> </ul>
FEDERAL KIDNAPPING AND INVOLUNTARY SERVITUDE OFFENSES	RELEVANT LAW	ELEMENTS
Children are often enslaved by their pimps. They are kidnapped, held in confinement and forced to work as prostitutes, masseuses, and/or exotic dancers. Federal statutes against kidnapping and involuntary servitude apply and authorize significant penalties, including life imprisonment.		
Kidnapping	18 U.S.C. § 1201	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Knowingly and willfully<sup>209</sup></li> <li>2. Abducts, seizes, or carries away a person</li> <li>3. Against her will<sup>210</sup></li> <li>4. For ransom or other benefit</li> <li>5. In interstate or foreign commerce or while on federal grounds.<sup>211</sup></li> </ol> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Imprisonment for any terms of years or life, but <ul style="list-style-type: none"> <li>○ If the death of any person results, life imprisonment or the death penalty.</li> <li>○ Not less than 20 years imprisonment if the victim is under age 18 and the defendant is an adult who is not the child’s parent, grandparent, sibling, aunt, uncle, or legal custodian.</li> <li>○ Not more than 20 years imprisonment for an attempted kidnapping.</li> </ul> </li> </ul>

Conspiracy Against Civil Rights	18 U.S.C. § 241	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Enters into an agreement<sup>212</sup></li> <li>2. To injure, oppress, threaten, or intimidate another person</li> <li>3. From exercising a right guaranteed by the U.S. Constitution or other federal law.</li> </ol> <ul style="list-style-type: none"> <li>• These rights include the right to be free from involuntary servitude, to travel between states, and to participate as a witness in federal proceedings.<sup>213</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Fine and/or imprisonment for up to 10 years, or</li> <li>• Fine and/or imprisonment for any term of years or life if the defendant commits or attempts to commit: <ul style="list-style-type: none"> <li>○ Kidnapping</li> <li>○ Aggravated sexual abuse, or</li> <li>○ Homicide, or</li> </ul> </li> <li>• If death of any person results from the acts involved in this crime, the death penalty may be applied.</li> </ul>
Enticement into Slavery	18 U.S.C. § 1583	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Kidnaps or entices a person to go to another place</li> <li>2. With the intent that the victim be sold into involuntary servitude<sup>214</sup> or held as slave.<sup>215</sup></li> </ol> <ul style="list-style-type: none"> <li>• It does not matter if the victim was paid, as long as she was forced to labor against her will.<sup>216</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Fine and/or imprisonment for up to 20 years, or</li> <li>• Fine and/or imprisonment for any term of years up to life if the defendant commits or attempts to commit <ul style="list-style-type: none"> <li>○ Kidnapping</li> <li>○ Aggravated sexual abuse, or</li> <li>○ Homicide.</li> </ul> </li> <li>• Forfeiture of property used in or derived from the crime.</li> </ul>

Sale into Involuntary Servitude	18 U.S.C. § 1584	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Knowingly and willfully</li> <li>2. Holds or sells another person into a condition of involuntary servitude</li> <li>3. By use or threats of physical force or restraint<sup>217</sup></li> <li>4. For any term of time.</li> </ol> <p>The landmark Eleventh Circuit decision in <i>U.S. v. Pipkins</i><sup>218</sup> established the following:</p> <ul style="list-style-type: none"> <li>• A pimp violates 18 U.S.C. § 1582 “by forcing [a child] to prostitute herself and turn over all of her earnings to him, lest she endure a beating at his hands.”</li> <li>• Even if the victim has the opportunity to escape, a pimp commits this offense if he creates such fear of physical harm that the child is afraid to leave.<sup>219</sup></li> <li>• The “temporal duration can be slight” and can be met even when a child moves frequently between pimps.</li> <li>• While the statute does not penalize psychological control, a child’s age makes her particularly susceptible to physical coercion.<sup>220</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Fine and/or up to 20 years imprisonment, or</li> <li>• Fine and/or imprisonment for any term of years up to life if the defendant commits or attempts to commit <ul style="list-style-type: none"> <li>○ Kidnapping</li> <li>○ Aggravated sexual abuse, or</li> <li>○ Homicide.</li> </ul> </li> <li>• Forfeiture of property used in or derived from the crime.</li> </ul>
Forced Labor	18 U.S.C. § 1589	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Knowingly</li> <li>2. Provides or obtains another person’s services</li> <li>3. By use or threats of physical force, restraint or serious harm.<sup>221</sup></li> </ol> <p>or</p> <p>Any person who</p> <ol style="list-style-type: none"> <li>1. Benefits from participating in a venture that forces persons to provide services</li> <li>2. While knowing or recklessly disregarding, that the venture operates this way.</li> </ol>

Forced Labor (Cont'd)	18 U.S.C. § 1589	<ul style="list-style-type: none"> <li>The court may impose a vulnerable victim sentencing enhancement if the victim belongs to a group typically vulnerable to exploitation, whether or not the individual victim was particularly vulnerable.<sup>222</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>Fine and/or imprisonment for up to 20 years, or</li> <li>Fine and/or up to life imprisonment, if the defendant commits or attempts to commit <ul style="list-style-type: none"> <li>Kidnapping</li> <li>Aggravated sexual abuse</li> <li>Homicide or an attempt to kill.</li> </ul> </li> <li>Forfeiture of property used in or derived from the crime.</li> </ul>
FEDERAL VIOLENT OFFENSES	RELEVANT LAW	ELEMENTS
Children in commercial sexual exploitation live with the constant threat of violence. Pimps beat, injure and even maim them in order to maintain tight “custody and control.” Many children are killed. The following federal statutes punish violent crimes against children that take place on federal grounds.		
Murder	18 U.S.C. § 1111	<p>There are three types of federal murder: first degree premeditated murder; first degree felony murder; and second degree murder.</p> <p><u>First Premeditated Murder</u> Any person who</p> <ol style="list-style-type: none"> <li>1. Causes another’s death</li> <li>2. With malice aforethought<sup>223</sup></li> <li>3. With premeditation<sup>224</sup></li> <li>4. On federal grounds.</li> </ol> <p><u>First Degree Murder: Felony Murder</u><sup>225</sup> Any person who</p> <ol style="list-style-type: none"> <li>1. Causes another’s death by</li> <li>2. Willfully and knowingly</li> <li>3. Committing or attempting to commit <ol style="list-style-type: none"> <li>a. Certain felonies, such as kidnapping, sexual abuse, or child abuse; or</li> <li>b. A pattern of assault or torture against children under age 18;</li> </ol> </li> <li>4. On federal grounds.</li> </ol>

Murder (Cont'd)	18 U.S.C. § 1111	<p><u>Second Degree Murder</u></p> <p>Any person who</p> <ol style="list-style-type: none"> <li>1. Causes another's death</li> <li>2. With malice aforethought but without premeditation</li> <li>3. On federal grounds.</li> </ol> <ul style="list-style-type: none"> <li>• It is not necessary that the defendant intended to kill the specific individual who dies.<sup>226</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Death or imprisonment for life for murder in the first degree.</li> <li>• Imprisonment for any terms of years or for life for murder in the second degree.</li> </ul>
Manslaughter	18 U.S.C. § 1112	<p>There are two types of federal manslaughter: voluntary and involuntary.</p> <p><u>Voluntary Manslaughter</u></p> <p>Any person who</p> <ol style="list-style-type: none"> <li>1. Intentionally</li> <li>2. Causes another's death</li> <li>3. In the heat of passion caused by adequate provocation<sup>227</sup></li> <li>4. On federal grounds.</li> </ol> <p><u>Involuntary Manslaughter</u></p> <p>Any person who</p> <ol style="list-style-type: none"> <li>1. Unintentionally</li> <li>2. Causes the death of another person</li> <li>3. While committing <ol style="list-style-type: none"> <li>a. an unlawful act that is not felony, or</li> <li>b. a lawful act with wanton and reckless disregard for life<sup>228</sup></li> </ol> </li> <li>4. On federal grounds.</li> </ol> <ul style="list-style-type: none"> <li>• The defendant must have acted with "gross negligence" amounting to wanton and reckless disregard for human life.<sup>229</sup></li> </ul>

Manslaughter (Cont'd)	18 U.S.C. § 1112	<u>Penalty</u> <ul style="list-style-type: none"> <li>• Fine and/or up to 15 years imprisonment for voluntary;</li> <li>• Fine and/or up to 8 years imprisonment for involuntary manslaughter.</li> </ul>
Attempt to Commit Murder or Manslaughter	18 U.S.C. § 1113	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Takes a substantial step<sup>230</sup> toward killing another person</li> <li>2. With the intent to kill that person</li> <li>3. On federal grounds.</li> </ol> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Fine and/or up to 20 years imprisonment for an attempted murder;</li> <li>• Fine and/or up to 7 years imprisonment for attempted manslaughter.</li> </ul>
Conspiracy to Commit Murder	18 U.S.C. § 1117	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Knowingly and voluntarily</li> <li>2. Enters an agreement to murder another person, and</li> <li>3. He or any other defendant commits an overt act in furtherance of the murder.<sup>231</sup></li> </ol> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Imprisonment for any term of years or for life.</li> </ul>
Assault	18 U.S.C. § 113	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Attempts to injure another person or makes a threat that causes a reasonable apprehension of immediate bodily harm.<sup>232</sup></li> <li>2. On federal grounds.</li> </ol> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• For assault with intent to commit murder, up to 20 years imprisonment.</li> <li>• For assault with intent to commit any other felony or assault with a dangerous weapon, fine and/or imprisonment for up to 10 years.</li> <li>• For assault by striking, beating, or wounding or simple assault of an adult, fine and/or up to 6 months imprisonment.</li> <li>• For simple assault of a child under age 16, fine and/or up to 1 year imprisonment.</li> <li>• For assault causing serious bodily injury,<sup>233</sup> fine and/or up to 10 years imprisonment.</li> <li>• For assault causing substantial bodily injury,<sup>234</sup> to child under age 16 years: fine and/or up to 5 years.</li> </ul>

Maiming	18 U.S.C. § 114	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. With intent to torture, maim or disfigure a person <ol style="list-style-type: none"> <li>a. Cuts, bites, or slits the victim's nose, ear, or lip,</li> <li>b. Cuts out or disables her tongue,</li> <li>c. Puts out or destroys an eye,</li> <li>d. Cuts off or disables a limb or other member of her body, or</li> <li>e. Throws scalding water, corrosive acid, or other caustic substance on her body</li> </ol> </li> <li>3. While on federal grounds.</li> </ol> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Fine and/or up to 20 years imprisonment.</li> </ul>
Interstate Domestic Violence	18 U.S.C. § 2261	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Travels in interstate or foreign commerce</li> <li>2. With intent to kill, injure, harass or intimidate an intimate partner or dating partner</li> <li>3. And then commits or attempts to commit a crime of violence against that partner.</li> </ol> <p>or</p> <p>Any person who</p> <ol style="list-style-type: none"> <li>1. Forces, coerces, defrauds an intimate partner or dating partner</li> <li>2. To travel in interstate commerce</li> <li>3. And then commits or attempts to commit a crime of violence against that partner.</li> </ol> <ul style="list-style-type: none"> <li>• A pimp is an intimate or dating partner of a CSEC victim if he cohabits with her, acts like her spouse, or has a romantic or intimate relationship with her.<sup>235</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Fine and/or: <ul style="list-style-type: none"> <li>○ Imprisonment for life or any term of years if death results.</li> <li>○ Up to 20 years imprisonment if permanent disfigurement or life-threatening bodily injury results .</li> <li>○ Up to 10 years imprisonment if serious bodily injury results or a dangerous weapon is used.</li> </ul> </li> </ul>

Interstate Domestic Violence (Cont'd)	18 U.S.C. § 2261	<ul style="list-style-type: none"> <li>○ Up to 5 years imprisonment in any other case.</li> </ul>
Domestic Assault by a Habitual Offender	18 U.S.C. § 117	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Assaults a person with whom he has a domestic relationship</li> <li>2. While on federal grounds, and</li> <li>3. Having at least 2 prior similar convictions.<sup>236</sup></li> </ol> <ul style="list-style-type: none"> <li>• A pimp can be prosecuted for a “domestic assault” under this statute if he cohabits with the CSEC victim, has a child with her, or acts like her spouse or guardian.<sup>237</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Fine and/or up to 5 years imprisonment, or</li> <li>• Fine and/or up to 10 years imprisonment if substantial bodily injury results.</li> </ul>
Carrying/Possessing A Firearm During A Federal Crime Of Violence <sup>238</sup>	18 U.S.C. § 924	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Commits a violent crime against another person</li> <li>2. While knowingly carrying or possessing a firearm.</li> </ol> <ul style="list-style-type: none"> <li>• The firearm must be carried “in relation” to the crime or possessed “in furtherance of” the crime.<sup>239</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• An increase to the sentence for the underlying crime by: <ul style="list-style-type: none"> <li>○ Not less than 5 years generally,</li> <li>○ If firearm is brandished, not less than 7 years imprisonment,</li> <li>○ If firearm is discharged, not less than 10 years imprisonment,</li> <li>○ If firearm is a short-barreled rifle or gun or a semiautomatic weapon, not less than 10 years imprisonment,</li> <li>○ If firearm is a machine gun or is equipped with a silencer, not less than 30 years imprisonment,</li> <li>○ If the defendant has been convicted before under this provision, not less than 25 years imprisonment, or</li> <li>○ If the defendant has been convicted before under this provision and the firearm involved is a machine gun or is equipped with a silencer, life imprisonment.</li> </ul> </li> </ul>

Harm to an Unborn Child	18 U.S.C. § 1841	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Causes the death or bodily injury</li> <li>2. Of a child in utero</li> <li>3. While committing a federal crime identified in the statute, such as homicide, aggravated sexual abuse or interstate domestic violence.<sup>240</sup></li> </ol> <ul style="list-style-type: none"> <li>• “Child in utero” means a member of the species homo sapiens, at any stage of development, who is carried in the womb.<sup>241</sup></li> <li>• The defendant need not know the victim was pregnant, nor have the specific intent to harm her unborn child.<sup>242</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• The same penalty that would apply if the victim were the unborn child’s mother.</li> <li>• The penalties for intentional homicide apply if the defendant intentionally killed the unborn child.</li> </ul>
FEDERAL PORNOGRAPHY OFFENSES	RELEVANT LAW	ELEMENTS
Federal statutes seriously punish sexually exploiting a child to create pornography and other images. Exploiters not only use children to create pornography, but they also give pornography to the children to sexualize them and teach them how to perform as prostitutes. Federal law prohibits distributing exploitive images of children, as well as for simply possessing them for private viewing.		
Sexual Exploitation of Children	18 U.S.C. § 2251 <sup>243</sup>	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Employs, entices, or coerces a child</li> <li>2. To engage in sexually explicit conduct;<sup>244</sup></li> <li>3. In order to produce a visual depiction<sup>245</sup></li> <li>4. Which he knew or had reason to know <ol style="list-style-type: none"> <li>a. Would be transported in interstate or foreign commerce, or</li> <li>b. Was made from materials transported in interstate or foreign commerce.</li> </ol> </li> </ol> <p>or</p> <p>Any parent or person with custody or control of a child who knowingly permits the above.</p>

Sexual Exploitation of Children (Cont'd)	18 U.S.C. § 2251	<ul style="list-style-type: none"> <li>• Knowledge of the child's age is not an element of the offense.<sup>246</sup></li> <li>• This statute may be used to prosecute a defendant who filmed a child in his home for private viewing.<sup>247</sup></li> <li>• A pimp can be a person with "custody or control" over a child, because the term includes anyone having "temporary supervision over or responsibility for a minor whether legally or illegally obtained."<sup>248</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• 15 to 30 years imprisonment for the first offense,</li> <li>• 25 to 50 years imprisonment for second offense, and</li> <li>• 35 years to life imprisonment for subsequent offenses.</li> </ul>
Selling or Buying Children	18 U.S.C. § 2251A	<p>Any parent or person with custody or control of a child who</p> <ol style="list-style-type: none"> <li>1. Sells or buys a child, or otherwise exchanges custody</li> <li>2. Through interstate or foreign commerce</li> <li>3. Knowing the child will be depicted engaging in sexually explicit conduct or intending to promote this activity.</li> </ol> <ul style="list-style-type: none"> <li>• "Custody or control" includes temporary supervision over or responsibility for a child whether legally or illegally obtained.<sup>249</sup></li> <li>• A pimp is a person having "custody or control" over a child.<sup>250</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• 30 years to life imprisonment.</li> </ul>
Certain Activities Relating to Material Involving the Sexual Exploitation of Children	18 U.S.C. § 2252	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Knowingly</li> <li>2. Transports, receives, distributes, sells, possesses with intent to sell, or merely possesses</li> <li>3. A visual depiction of a child engaged in sexually explicit conduct which <ol style="list-style-type: none"> <li>a. Was produced using a child or</li> <li>b. The defendant knew showed sexually explicit conduct and featured a child.<sup>251</sup></li> </ol> </li> <li>4. In interstate or foreign commerce.</li> </ol> <ul style="list-style-type: none"> <li>• The defendant must either be on federal grounds, or the depiction and/or its component materials must have traveled in interstate or foreign commerce.<sup>252</sup></li> <li>• It is an affirmative defense that the defendant possessed less than 3 such materials</li> </ul>

<p>Certain Activities Relating to Material Involving the Sexual Exploitation of Children (Cont'd)</p>	<p>18 U.S.C. § 2252</p>	<p>and promptly took steps to destroy them or report them to the police.<sup>253</sup></p> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• For possession: <ul style="list-style-type: none"> <li>○ Up to 10 years imprisonment for the first offense, and</li> <li>○ 10 to 20 years imprisonment for subsequent offenses.</li> </ul> </li> <li>• For all other offenses: <ul style="list-style-type: none"> <li>○ 5 to 20 years imprisonment for the first offense, and</li> <li>○ 15 to 40 years imprisonment for subsequent offenses</li> </ul> </li> </ul>
<p>Certain Activities Relating to Material Constituting Child Pornography</p>	<p>18 U.S.C. § 2252A</p>	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Knowingly <ol style="list-style-type: none"> <li>a. Transports, receives, distributes, or possesses with intent to distribute</li> <li>b. Possesses, or</li> <li>c. Offers to a child</li> </ol> </li> <li>2. Child pornography <ol style="list-style-type: none"> <li>a. On federal grounds, or</li> <li>b. Which has traveled in interstate commerce or its component materials have traveled in interstate commerce.</li> </ol> </li> </ol> <ul style="list-style-type: none"> <li>• “Child pornography” includes visual depictions of a child actually engaged in sexually explicit conduct, as well as images that are created or adapted to appear to show a child engaging in such conduct.<sup>254</sup></li> <li>• It is an affirmative defense that the defendant possessed less than 3 such materials and promptly took steps to destroy them or report them to the police.<sup>255</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• For possession: <ul style="list-style-type: none"> <li>○ Up to 10 years imprisonment for the first offense, and</li> <li>○ 10 to 20 years imprisonment for subsequent offenses.</li> </ul> </li> <li>• For all other offenses: <ul style="list-style-type: none"> <li>○ 5 to 20 years imprisonment for first offense, and</li> <li>○ 15 to 40 years imprisonment for subsequent offenses.</li> </ul> </li> </ul>

Record Keeping Requirements for Actual Sexual Conduct <sup>256</sup>	18 U.S.C. § 2257	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Produces matter depicting actual sexually explicit conduct</li> <li>2. The depiction and/or its component materials traveled in interstate or foreign commerce, and</li> <li>3. The person fails to maintain records on every performer or affix a statement to every depiction stating where those records are kept.</li> </ol> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Fine and up to 5 years imprisonment for the first offense, and</li> <li>• Fine and 2 to 10 years imprisonment for subsequent offenses.</li> </ul>
Record keeping Requirements for Simulated Sexual Conduct	18 U.S.C. § 2257A	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Produces matter depicting simulated sexually explicit conduct</li> <li>2. The depiction and/or its component materials traveled in interstate or foreign commerce, and</li> <li>3. The person fails to maintain records on every performer or affix a statement to every depiction stating where those records are kept.</li> </ol> <ul style="list-style-type: none"> <li>• Same offense as 18 U.S.C. § 2257, above, but this offense applies to depictions of simulated, rather than actual, sexual conduct.<sup>257</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Fine and up to 1 year imprisonment for the first offense in most cases.</li> <li>• Fine and up to 5 years imprisonment for the first offense if committed with the intent to conceal the sexual exploitation of a child.</li> <li>• Fine and 2 to 10 years imprisonment for subsequent offenses.</li> </ul>
Production of Sexually Explicit Depictions of a Child for the Importation to the US	18 U.S.C. § 2260	<p>Any person outside the U.S. who</p> <ol style="list-style-type: none"> <li>1. Employs, entices or coerces a child</li> <li>2. To engage in sexually explicit conduct</li> <li>3. In order to produce or transmit a visual depiction</li> <li>4. With the intent that it be imported into the U.S.</li> </ol> <p>or</p>

Production of Sexually Explicit Depictions of a Child for the Importation to the US (Cont'd)	18 U.S.C. § 2260	<p>Any person outside the U.S. who</p> <ol style="list-style-type: none"> <li>1. Knowingly</li> <li>2. Receives, transports, distributes, or possesses with intent to distribute</li> <li>3. A visual depiction of a child engaging in sexually explicit conduct</li> <li>4. With the intent that it be imported into the U.S.</li> </ol> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• For production or transmission: <ul style="list-style-type: none"> <li>○ 15 to 30 years imprisonment for the first offense,</li> <li>○ 25 to 50 years imprisonment for the second offense, and</li> <li>○ 35 years to life imprisonment for subsequent offenses.</li> </ul> </li> <li>• For receipt, transportation or distribution: <ul style="list-style-type: none"> <li>○ 5 to 20 years imprisonment for the first offense, and</li> <li>○ 15 to 40 years imprisonment for subsequent offenses.</li> </ul> </li> </ul>
Mailing of Obscene Materials	18 U.S.C. § 1461 <sup>258</sup>	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Knowingly</li> <li>2. Uses the mails to convey</li> <li>3. Obscene materials</li> <li>4. Knowing the general nature of the content.<sup>259</sup></li> </ol> <ul style="list-style-type: none"> <li>• Materials are “obscene” if they: <ul style="list-style-type: none"> <li>(1) appeal predominantly to prurient interest;</li> <li>(2) depict or describe sexual conduct in a patently offensive way; and</li> <li>(3) lack serious literary, artistic, political or scientific value.<sup>260</sup></li> </ul> </li> <li>• The first two prongs are to be judged by community standards, while the third prong is objective, based on a reasonable person standard.<sup>261</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Fine and/or up to 5 years imprisonment for the first offense, and</li> <li>• Fine and/or up to 10 years imprisonment for subsequent offenses.</li> </ul>

Interstate Transportation of Obscene Materials (“Cyberporn”)	18 U.S.C. § 1462	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Knowingly</li> <li>2. Use an interactive computer service or other common carrier to transport</li> <li>3. Obscene materials</li> <li>4. In interstate or foreign commerce</li> <li>5. Knowing the general nature of the content.</li> </ol> <ul style="list-style-type: none"> <li>• An “interactive computer service” is any service that provides access to the internet.<sup>262</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Fine and/or up to 5 years imprisonment for the first offense, and</li> <li>• Fine and/or up to 10 years imprisonment for subsequent offenses.</li> </ul>
Production and Transportation of Obscene Matters for Sale or Distribution	18 U.S.C. § 1465	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Knowingly</li> <li>2. Transports or produces for transportation</li> <li>3. Obscene materials</li> <li>4. With the intent to sell or distribute them</li> <li>5. Knowing the general nature of their content.</li> </ol> <ul style="list-style-type: none"> <li>• This statute applies to transmission of obscene images by computer. It does not ban “phone sex.”<sup>263</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Fine and/or up to 5 years imprisonment.</li> </ul>
Engaging in the Business of Selling or Transferring Obscene Matter	18 U.S.C. § 1466	<p>Any person in the business<sup>264</sup> of selling or transferring obscene material who</p> <ol style="list-style-type: none"> <li>1. Knowingly</li> <li>2. Receives obscene materials</li> <li>3. In interstate or foreign commerce</li> <li>4. With the intent to sell or distribute them.</li> </ol> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Fine and/or up to 5 years imprisonment.</li> </ul>

<p>Obscene Visual Representations of the Sexual Abuse of Children</p>	<p>18 U.S.C. § 1466A</p>	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Knowingly</li> <li>2. Produces, distributes, possesses with intent to distribute, or merely possesses</li> <li>3. In interstate or foreign commerce, or on federal grounds</li> <li>4. A visual depiction that <ol style="list-style-type: none"> <li>a. Shows an actual child engaged in sexually explicit conduct<sup>265</sup> and is obscene, or</li> <li>b. Appears to show a child engaged in graphic bestiality, sadistic or masochistic abuse, or sexual intercourse, and lacks serious literary, artistic, political, or scientific value.</li> </ol> </li> </ol> <ul style="list-style-type: none"> <li>• One federal court has deemed this statute unconstitutional to the extent that it allows a defendant to be punished for receipt or possession of visual depictions that do not involve actual children or obscenity.<sup>266</sup></li> <li>• It is an affirmative defense that the defendant possessed less than 3 such materials and promptly took steps to destroy them or report them to the police.<sup>267</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• For mere possession: <ul style="list-style-type: none"> <li>○ Fine and/or up to 10 years imprisonment for the first offense, and</li> <li>○ Fine and/or 10 to 20 years imprisonment for subsequent offenses.</li> </ul> </li> <li>• For all other offenses: <ul style="list-style-type: none"> <li>○ Fine and 5 to 20 years imprisonment for the first offense, and</li> <li>○ Fine and 15 to 40 years imprisonment for subsequent offenses.</li> </ul> </li> <li>• </li> </ul>
<p>Transfer of Obscene Material to Children</p>	<p>18 U.S.C. § 1470</p>	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Uses the mail or any other means of interstate commerce</li> <li>2. To transfer or attempt to transfer obscene matter</li> <li>3. To a child under age 16</li> <li>4. Knowing that the child is under age 16.</li> </ol> <ul style="list-style-type: none"> <li>• The Government need not prove that the victim was a child under age 16, only that the defendant believed she was.<sup>268</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Fine and/or up to 10 years imprisonment.</li> </ul>

FEDERAL DRUG OFFENSES	RELEVANT LAW	ELEMENTS
Drugs are often provided to children to lure them into exploitive situations and to keep them compliant with their pimps or traffickers.		
Distribution of Controlled Substances to Persons Under Age 21	21 U.S.C. § 859	<p>Anyone age 18 or older who</p> <ol style="list-style-type: none"> <li>1. Distributes a controlled substance<sup>269</sup></li> <li>2. To a child under age 21.</li> </ol> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Twice the maximum punishment for distribution<sup>270</sup> on the first offense, and,</li> <li>• Three times the maximum punishment for distribution on subsequent offenses.</li> </ul>
FEDERAL ORGANIZED CRIME OFFENSES	RELEVANT LAW	ELEMENTS
The federal racketeering statute has been successfully used to prosecute pimps and panderers in Georgia. The federal “criminal street gangs” statute may also be used to enhance the sentence of a CSEC defendant who is involved in a street gang.		
Racketeer Influenced and Corrupt Organizations (“RICO”)	18 U.S.C. § 1962	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Is associated with an enterprise<sup>271</sup> that affects interstate commerce</li> <li>2. And conducts or participates in the enterprise's affairs</li> <li>3. Through a pattern of racketeering activity<sup>272</sup> <ol style="list-style-type: none"> <li>a. By committing at least 2 predicate acts of racketeering</li> <li>b. Linked by a common scheme, plan or motive.</li> </ol> </li> </ol> <p>or</p> <p>Any person who</p> <ol style="list-style-type: none"> <li>1. Conspires to participate in such an enterprise</li> <li>2. By agreeing to its overall objective, or by agreeing to perform two predicate acts.<sup>273</sup></li> </ol> <ul style="list-style-type: none"> <li>• Predicate acts include CSEC-related offenses, such as: <ul style="list-style-type: none"> <li>○ Murder</li> <li>○ Kidnapping</li> <li>○ Trafficking and involuntary servitude</li> <li>○ Sexual exploitation of children and child pornography</li> </ul> </li> </ul>

Racketeer Influenced and Corrupt Organizations (Cont'd)	18 U.S.C. § 1962	<ul style="list-style-type: none"> <li>○ Dealing in obscene matter</li> <li>○ Fraud relating to citizenship, nationalization, or international travel documents<sup>274</sup></li> </ul> <p>The Eleventh Circuit's landmark decision in <i>U.S. v. Pipkins</i><sup>275</sup> established the following:</p> <ul style="list-style-type: none"> <li>• Defendants need not be part of a formal organization to be a RICO "enterprise." Instead, they need only cooperate and associate on a continuing basis for the common purpose of prostituting children.</li> <li>• A RICO enterprise may exist even when defendants (1) have no organization, hierarchy, or leader supervising activities; (2) are direct competitors in the prostitution market; and (3) do not have continuity of membership.<sup>276</sup></li> <li>• RICO's interstate commerce requirement is satisfied when a pimp (1) drives a CSEC victim across state lines; (2) uses a pager, telephone, mobile phone or the internet to conduct CSEC business; or even (3) furnishes CSEC victims with condoms manufactured out-of-state.</li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Up to 20 years imprisonment in most cases.</li> <li>• Life imprisonment if the violation is based on a racketeering activity for which the maximum penalty includes life imprisonment.</li> <li>• Forfeiture of any assets used in or gained from RICO activities.</li> </ul>
Criminal Street Gangs	18 U.S.C. § 521	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Commits a violent federal felony</li> <li>2. While participating in a criminal street gang, which is a group of 5 or more people that <ol style="list-style-type: none"> <li>a. Has as its main purpose the commission of violent or drug-related felonies;</li> <li>b. Has been engaged in a continuing series of felonies during the past 5 years; and</li> <li>c. Operates in interstate commerce.<sup>277</sup></li> </ol> </li> <li>3. Intending to promote the gang's felonious acts or his own position in the gang</li> <li>4. Knowing that gang members have engaged in a continuing series of violent or drug-related felonies,<sup>278</sup> and</li> <li>5. Having already been convicted of one such felony in the past 5 years.</li> </ol> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Sentencing enhancement of up to 10 additional years imprisonment.</li> </ul>

FEDERAL FALSE IDENTIFICATION OFFENSES	RELEVANT LAW	ELEMENTS
CSEC offenders often supply children with false identification documents, and, when the child is from another country, with false immigration documents as well. The following federal statutes penalize these offenses. They provide substantial prison terms when the offenses facilitate violent crimes or relate to key government documents, such as passports, visas or drivers licenses.		
Fraud and Related Activity in Connection with Identification Documents, Authentication Features, and Information	18 U.S.C. § 1028	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Knowingly</li> <li>2. Does any of the following: <ol style="list-style-type: none"> <li>a. Produces a false identification (“ID”) document</li> <li>b. Transfers a false or stolen ID document knowing it to be false or stolen</li> <li>c. Possesses a false or stolen ID document with the intent to defraud the U.S.</li> <li>d. Possesses 5 or more such ID documents with the intent to use or transfer them</li> <li>e. Makes, transfers, or possesses with intent to use, an ID-making implement<sup>279</sup></li> <li>f. Misuses another person’s means of ID, such as the person’s date of birth or social security number,<sup>280</sup> or</li> <li>g. Traffics in any of the above documents or equipment</li> </ol> </li> <li>3. In interstate commerce.<sup>281</sup></li> </ol> <ul style="list-style-type: none"> <li>• An “identification document” is any document made or issued by a government and commonly accepted as ID.<sup>282</sup></li> </ul> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Fine and/or up to 1 year imprisonment, except</li> <li>• Fine and/or up to 5 years imprisonment for possessing false or stolen ID with intent to use or transfer</li> <li>• Fine and/or up to 15 years imprisonment for producing or transferring false or stolen ID<sup>283</sup></li> <li>• Fine and/or up to 20 years imprisonment if acts were done to facilitate a crime of violence<sup>284</sup> or for subsequent offenses.</li> </ul>

Aggravated Identity Theft	18 U.S.C. § 1028A	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Knowingly<sup>285</sup></li> <li>2. Transfers, possesses or uses</li> <li>3. Without lawful authority</li> <li>4. A means of identification of another person</li> <li>5. As part of a felony act involving fraudulent identification documents, citizenship papers, passports or visas.<sup>286</sup></li> </ol> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Sentence for the underlying felony, plus an additional 2 years imprisonment.</li> </ul>
Misuse of Evidence of Citizenship or Naturalization	18 U.S.C. § 1423	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Knowingly</li> <li>2. Uses false or wrongly-issued naturalization or citizenship papers</li> <li>3. To show that a person is naturalized or admitted as a citizen, when she is not.</li> </ol> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Fine and/or up to 5 years imprisonment.</li> </ul>
Misuse of Papers in Naturalization Proceedings	18 U.S.C. § 1424	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Knowingly</li> <li>2. Uses the name of another person or false naturalization papers</li> <li>3. During a naturalization or citizenship proceeding</li> <li>4. To prove naturalization or citizenship of himself or another person.</li> </ol> <p><u>Penalty</u></p> <ul style="list-style-type: none"> <li>• Fine and/or up to 5 years.</li> </ul>
Reproduction of Naturalization or Citizenship Papers	18 U.S.C. § 1426	<p>Any person who</p> <ol style="list-style-type: none"> <li>1. Falsifies or alters citizenship papers, or</li> <li>2. Knowing they are false or altered, uses or possesses them with the intent to sell.</li> </ol> <ul style="list-style-type: none"> <li>• Citizenship papers include certificates of arrival, declarations of intention to become a citizen, documentary evidence of naturalization or citizenship, and related court orders.<sup>287</sup></li> </ul>

Reproduction of Naturalization or Citizenship Papers (Cont'd)	18 U.S.C. § 1426	<u>Penalty</u> <ul style="list-style-type: none"> <li>• Fine and/or up to 10 years imprisonment for the first or second offense, and</li> <li>• Fine and/or up to 15 years imprisonment for subsequent offenses.</li> </ul>
Forgery or False Use of Passport	18 U.S.C. § 1543	Any person who <ol style="list-style-type: none"> <li>1. Forges, mutilates, or alters a passport or purported passport, or</li> <li>2. Willfully and knowingly uses or provides such a passport.</li> </ol> <u>Penalty</u> <ul style="list-style-type: none"> <li>• Fine and/or up to 10 years imprisonment for the first or second offense, and</li> <li>• Fine and/or up to 15 years imprisonment for subsequent offenses.</li> </ul>
Fraud or Misuse of Visas, Permits or Other Documents	18 U.S.C. § 1546	Any person who <ol style="list-style-type: none"> <li>1. Knowingly</li> <li>2. Does any of the following: <ol style="list-style-type: none"> <li>a. Forges, alters or falsely procures a visa, registration card or other U.S. entry document</li> <li>b. Receives, uses or attempts to use such a document</li> <li>c. Appears under a fictitious name to obtain such a document</li> <li>d. Sells or offers to sell such document, or</li> <li>e. Makes a false statement about a material fact in a required immigration document.</li> </ol> </li> </ol> <u>Penalty</u> <ul style="list-style-type: none"> <li>• Up to 10 years imprisonment for the first or second offenses, and</li> <li>• Up to 15 years imprisonment for subsequent offenses.</li> </ul>
Unlawful Conduct with Respect to Documents in Furtherance of Trafficking, Peonage, Slavery, Involuntary Servitude, or Forced Labor <sup>288</sup>	18 U.S.C. § 1592	Any person who <ol style="list-style-type: none"> <li>1. Knowingly</li> <li>2. Destroys, conceals, confiscates, or possesses</li> <li>3. The passport, immigration document, or government identification document of</li> <li>4. A victim of a severe form of trafficking<sup>289</sup></li> <li>5. To restrict the victim's freedom and maintain her labor or services.</li> </ol> <u>Penalty</u> <ul style="list-style-type: none"> <li>• Fine and/or up to 5 years imprisonment, and</li> <li>• Forfeiture of any assets used in or derived from the trafficking.</li> </ul>

# Suggested Next Steps

This report compiles federal and state statutes that may be used to prosecute individuals who buy and sell children for sex in Georgia. It is a unique and valuable resource that can be used to combat CSEC in Georgia and nationwide. As outlined below, it can help: (1) improve the investigation and prosecution of CSEC cases; (2) educate the child advocacy community and others who have contact with vulnerable and victimized children; (3) educate the children themselves that the law is a tool they can use to stop and punish their exploiters; and (4) increase awareness among the public, including potential offenders, that CSEC-related offenses are serious crimes and have serious consequences.

## **1. Uses to Improve Investigation and Prosecution of CSEC Cases**

- This work can serve as the basis for developing questions for forensic interviewers and caseworkers to help them solicit evidence for multiple-count CSEC prosecutions.
- Tools can be created for police officers to help them identify applicable charges. For example, a card could be created that lists potential offenses and can be carried by officers on patrol.
- It can be a handy reference for district attorneys to help them build stronger cases and try them more effectively.
- It can also be the basis for reference materials for judges to help them better understand and guide CSEC trials, including the giving of appropriate CSEC jury instructions.
- Specialized training can be created for forensic interviewers, law enforcement and judges.
- The information contained here can be shared at regional, national and international conferences with similar groups outside of Georgia.<sup>290</sup>
- It can help legal academics and legislators to understand and improve existing criminal law.

## **2. Uses to Educate the Child Advocacy Community**

- It can be the basis for creation of materials to educate the child advocacy community in Georgia and nationwide about the multiple offenses involved in CSEC so that these groups can assist child victims and share information with their constituents.
- The report and related information can be placed on the website of the Governor's Office of Children and Family and other child advocacy groups.
- Specialized conferences and training could be developed to share the information.

## **3. Uses to Educate Vulnerable and Victimized Children**

- Pamphlets could be created to educate child victims that they are, in fact, victims of serious crimes and have legal recourse. These pamphlets could be placed at:
  - Runaway shelters, such as Covenant House, and potential CSEC emergency drop-in centers that educate and shelter victims;
  - Places where CSEC occurs, such as hotels, bus terminals, and adult entertainment clubs;
  - Doctor's offices and health clinics; and
  - Schools.

#### **4. Uses to Increase Public Awareness**

- A media package can be created that would alert the public, including potential offenders, that CSEC involves serious crimes punishable by substantial prison sentences, forfeiture, and fines.
- Materials could be placed in hotels, motels, airport and bus terminals, adult entertainment clubs, and other places where CSEC occurs that would educate those who work in these places, as well as potential offenders who visit them, about CSEC-related crimes and the penalties for engaging in them.<sup>291</sup>

---

<sup>1</sup>The pimping statute was expanded in 1968 and now covers acts that had been viewed as pandering: transporting another to a place of prostitution and commanding prostitution. Traditionally, the “target of pimping is the buyer and the aim of the pimp is to persuade the buyer to make a purchase. Pandering, on the other hand, is directed toward the seller, and the goal is to persuade the seller to perform an act of prostitution in exchange for money. Because there is a separate statute which prohibits pandering, the appellate courts will most likely construe . . . § 16-6-11 to prohibit only that solicitation activity which is directed toward the customer. This issue has not yet been faced by the courts.” ROBERT E. CLEARY, JR., *GEORGIA CRIMINAL OFFENSES AND DEFENSES* 77 (2009 ed.).

<sup>2</sup>A defendant may be guilty of pimping for merely driving another person to meet a prostitute; it is not necessary that he command the victim to engage in prostitution. Cleary *supra* note 1 at 77.

<sup>3</sup>O.C.G.A. § 16-6-9 (2012). Legislation has been proposed to amend this provision to prevent prosecution of children under the age of 16 or 18. See HB 582 and SB 304, 2010 Georgia General Assembly Session.

<sup>4</sup>See O.C.G.A. § 16-6-13 (2012).

<sup>5</sup>Penalties for pimping, pandering and keeping a house of prostitution are contained in O.C.G.A. § 16-6-13.

<sup>6</sup>When a statute authorizes different penalties depending on the age of the victim, this chart will only identify the penalties applicable to cases involving victims under the age of 18.

<sup>7</sup>O.C.G.A. § 16-6-13.2 (2012) (authorizing forfeiture of motor vehicles used to facilitate pimping or pandering of a child under age 18); O.C.G.A. § 16-6-13.3 (2012) (authorizing forfeiture of proceeds of pimping or pandering of a child under age 18).

<sup>8</sup> “[T]he prohibition of knowingly assembling persons at a fixed place for the purpose of being solicited by others to perform an act of prostitution was added in 1970 to help combat organized crime. This addition is strikingly similar to the offense of pimping, although it may be seen as punishing the pimp's conduct earlier in the transaction than § 16-6-11.” Cleary *supra* note 1 at 77.

<sup>9</sup>See *Fluker v. State*, 282 S.E.2d 112 (Ga. 1981) (“Even if primary emphasis of pandering statute is on recruitment of females into practice of prostitution, statute . . . makes solicitation to perform a single act of prostitution a violation; thus, the defendants' soliciting female to perform act of prostitution with them rather than with third party violated pandering statute.”).

<sup>10</sup>See O.C.G.A. § 16-6-13.

<sup>11</sup>O.C.G.A. § 16-6-13.2 (forfeiture of motor vehicles used to facilitate pimping or pandering); O.C.G.A. § 16-6-13.3 (forfeiture of proceeds of pimping or pandering).

<sup>12</sup>Control may be shown by the defendant's address listed in a phone book, or sexually explicit material in the home that contains the defendant's ads for prostitution and a written response to one of those ads. *Rivais v. State*, 384 S.E.2d 200 (Ga. Ct. App. 1989).

<sup>13</sup>See O.C.G.A. § 16-6-13.

<sup>14</sup>See, e.g., *Walker v. State*, 538 S.E.2d 563 (Ga. Ct. App. 2000) (Sufficient evidence supported convictions for pandering by compulsion and false imprisonment when the defendant took a 15-year-old girl to a hotel and had sex with her; told her she must start prostituting for him; threatened to kill her when she refused; and then forced her to live in a van with him while she worked as his prostitute).

<sup>15</sup>See O.C.G.A. § 16-6-15(b) (2012).

<sup>16</sup>*O'Kelly v. State*, 397 S.E.2d 197 (Ga. Ct. App. 1990) (upholding criminal solicitation conviction where the defendant expressed desire to see girlfriend's daughter killed, provided the means for disabling her car, and stated repeatedly that if he could not get someone else to hurt her, he would).

<sup>17</sup>There are currently no reported cases under this statute.

<sup>18</sup>“Sexually explicit conduct” is defined by O.C.G.A. § 16-12-100 (2012). See *infra* note 124.

<sup>19</sup>Each violation shall constitute a separate offense and shall not merge with any other offense. O.C.G.A. § 16-5-46(f) (2012).

<sup>20</sup>*Drake v. State*, 236 S.E.2d 748 (Ga. 1977); *Claitt v. State*, 270 S.E.2d 34 (Ga. Ct. App. 1980).

<sup>21</sup>*Haywood v. State*, 642 S.E.2d 203 (Ga. Ct. App. 2007).

<sup>22</sup>O.C.G.A. § 16-6-3(a) (2012). Corroboration does not require eyewitness testimony, but may include various types of supporting evidence. See, e.g., *Long v. State*, 375 S.E.2d 274 (Ga. Ct. App. 1988) (the victim made prior

---

consistent statements to her mother and to a social worker about the rape); *Byars v. State*, 403 S.E.2d 82 (Ga. Ct. App. 1991) (the victim was impregnated by the incident and the defendant had the opportunity to have caused the pregnancy); *McClendon v. State*, 371 S.E.2d 139 (Ga. Ct. App. 1988) (testimony from a physician and the victim's teacher suggested that she had engaged in intercourse, and the defendant had access to her).

<sup>23</sup> A misdemeanor is punishable by a fine of up to \$1,000 and/or confinement or probation for up to 12 months. O.C.G.A. § 17-10-3 (2012).

<sup>24</sup> Although the phrase "immoral or indecent act" is not defined by statute, Georgia courts have held that the phrase is not unconstitutionally vague as used in the child molestation and child enticement statutes. *See McCord v. State*, 285 S.E.2d 724 (Ga. 1982); *Jackson v. State*, 619 S.E.2d 294 (Ga. Ct. App. 2005). Immoral or indecent acts include, but are not limited to, criminal sexual acts against a minor. *See Spivey v. State*, 619 S.E.2d 346 (Ga. Ct. App. 2005) (holding that the defendants convicted of child molestation or enticement must register as sex offenders because the offenses penalize "criminal sexual conduct toward a minor, solicitation of a minor to engage in sexual conduct [and]... conduct which, by its nature, is a sexual offense against a minor.").

<sup>25</sup> This provision was added in 2009 by H.B. 123, Georgia 2009 General Assembly.

<sup>26</sup> *Watkins v. State*, 516 S.E.2d 377 (Ga. Ct. App. 1999).

<sup>27</sup> *Veasey v. State*, 507 S.E.2d 799 (Ga. Ct. App. 1998).

<sup>28</sup> *Lopez v. State*, 661 S.E.2d 618 (Ga. Ct. App. 2008).

<sup>29</sup> *Grimsley v. State*, 505 S.E.2d 522 (Ga. Ct. App. 1998) (defendant convicted of child molestation for engaging in sex with his wife in front of his children for purposes of his sexual arousal).

<sup>30</sup> O.C.G.A. § 24-2-3 (2012).

<sup>31</sup> This statute also applies to a person having "immediate charge or custody" of a child under age 18 who willfully deprives the child of necessary sustenance to the extent that the child's health or well-being is jeopardized. O.C.G.A. § 16-5-70 (2012).

<sup>32</sup> Convictions under this statute have been based on unexplained injuries such as human bites and broken bones, unusual injuries to a child's genital area, and cigarette and hot water burns. *See, e.g., House v. State*, 316 S.E.2d 36 (Ga. Ct. App. 1984) (human bites and broken bones); *Hooker v. State*, 466 S.E.2d 270 (Ga. Ct. App. 1995) (unusual injuries to child's body and genitals); *Grier v. State*, 361 S.E.2d 379 (Ga. Ct. App. 1987) (cigarette burns); *Gatson v. State*, 401 S.E.2d 71 (Ga. Ct. App. 1991) (hot water burns).

<sup>33</sup> *Hoang v. State*, 551 S.E.2d 813 (Ga. Ct. App. 2001) (babysitter convicted of cruelty to children for deliberately failing to seek medical care for an infant).

<sup>34</sup> *Sims v. State*, 507 S.E.2d 845 (Ga. Ct. App. 1998).

<sup>35</sup> *Sims v. State*, 507 S.E.2d 845 (Ga. Ct. App. 1998).

<sup>36</sup> *Phillips v. State*, 680 S.E.2d 424 (Ga. Ct. App. 2009). The legal term for moving the victim is "asportation."

<sup>37</sup> *Dennard v. State*, 534 S.E.2d 182 (Ga. Ct. App. 2000) (upholding conviction for child enticement when the defendant had sexually-explicit email conversations with the victim, whom he thought was a child, and arranged to have her meet him at the mall and then go to his house to engage in sexual acts).

<sup>38</sup> *Moore v. State*, 661 S.E.2d 868 (Ga. Ct. App. 2008) (the defendant enticed the 15-year-old victim into apartment under the false pretense that he needed to get something there, and once inside the apartment the defendant made sexual advances, and fact that victim went voluntarily with the defendant to the apartment did not foreclose a showing of asportation).

<sup>39</sup> "Minor" means any individual who is under the age of 17 years or any individual under the age of 18 years who is alleged to be a deprived child. O.C.G.A. § 16-12-1(a)(3) (2012).

<sup>40</sup> "Delinquent act" means any state or federal crime that could be committed by an adult, the violation of a court order of supervision for delinquency, or the failure to appear on a citation for the offense of buying alcohol while under age 21. O.C.G.A. § 15-11-2(6) (2012).

<sup>41</sup> "Unruly child" means a child who is habitually truant from school; habitually disobedient and ungovernable; commits an offense which would not be a crime if the child were an adult; runs away from home; loiters the streets past midnight; disobeys a court order of supervision for unruliness; patronizes bars; is in need of supervision, treatment, or rehabilitation; or has committed a delinquent act and is in need of supervision but not treatment or rehabilitation. O.C.G.A. § 15-11-2(12).

---

<sup>42</sup> “Weapon” means “any pistol, revolver, or any weapon designed or intended to propel a missile of any kind, or any dirk, bowie knife, switchblade knife, ballistic knife, any other knife having a blade of two or more inches, straight to edge razor, razor blade, spring stick, knuckles, whether made from metal, thermoplastic, wood, or other similar material, blackjack, any bat, club, or other bludgeon to type weapon, or any flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun chahka, nun chuck, nunchaku, shuriken, or fighting chain, or any disc, of whatever configuration, having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart, or any weapon of like kind, and any stun gun or taser.” O.C.G.A. § 16-11-127.1 (2012). Weapon also includes “any weapon commonly known as a ‘rocket launcher,’ ‘bazooka,’ or ‘recoilless rifle’ which fires explosive or nonexplosive rockets designed to injure or kill personnel or destroy heavy armor, or similar weapon used for such purpose;” any mortar “which fires high explosive from a metallic cylinder and which is commonly used by the armed forces as an antipersonnel weapon or similar weapon used for such purpose;” and any hand grenade or other similar weapon “which is designed to explode and injure personnel or similar weapon used for such purpose.” O.C.G.A. § 16-11-121 (2012).

<sup>43</sup> “Deprived child” means “a child who (A) Is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for the child's physical, mental, or emotional health or morals; (B) Has been placed for care or adoption in violation of law; (C) Has been abandoned by his or her parents or other legal custodian; or (D) Is without a parent, guardian, or custodian.” O.C.G.A. § 15-11-2(8).

<sup>44</sup> O.C.G.A. § 16-12-1(c) (2012).

<sup>45</sup> O.C.G.A. § 16-12-1(b)(2) (2012).

<sup>46</sup> “Serious injury” means an injury involving a broken bone, the loss of a member of the body, the loss of use of a member of the body, the substantial disfigurement of the body or of a member of the body, an injury which is life threatening, or any sexual abuse of a child under age 16 that constitutes sexual exploitation under O.C.G.A. § 16-12-100. O.C.G.A. § 16-12-1(a)(4).

<sup>47</sup> The penalty for a high and aggravated misdemeanor is a fine of up to \$5,000, confinement in jail for up to 12 months or both. O.C.G.A. § 17-10-4 (2012).

<sup>48</sup> O.C.G.A. § 16-6- 1(a) (2012).

<sup>49</sup> *Lee v. State*, 28 S.E.2d 465 (Ga. 1943); *Wallace v. State*, 558 S.E.2d 773 (Ga. App. Ct. 2002).

<sup>50</sup> *Skipper v. State*, 364 S.E.2d 835 (Ga. 1988); *Searcy v. State*, 280 S.E.2d 161 (Ga. Ct. App. 1981).

<sup>51</sup> *State v. Collins*, 508 S.E.2d 390 (Ga. 1998). *See also Johnson v. State*, 475 S.E.2d 918 (Ga. Ct. App. 1996) (rape conviction upheld without victim’s testimony that the sexual intercourse was non-consensual, because the defendant began having sex with her before she turned 16 and there was no indication that the relationship had become consensual since then).

<sup>52</sup> *Brewer v. State*, 523 S.E.2d 18 (Ga. 1999).

<sup>53</sup> *Henry v. State*, 673 S.E.2d 120 (Ga. Ct. App. 2009).

<sup>54</sup> The rape shield statute provides: “In any prosecution in violation of Code Section 16-6- 1, relating to rape; Code Section 16-6- 2, relating to aggravated sodomy; Code Section 16-6- 4, relating to aggravated child molestation; or Code Section 16-6- 22.2, relating to aggravated sexual battery, evidence relating to the past sexual behavior of the complaining witness shall not be admissible . . . [including] evidence of the complaining witness's marital history, mode of dress, general reputation for promiscuity, nonchastity, or sexual mores contrary to the community standards.” O.C.G.A. § 24-2-3 (2012).

<sup>55</sup> The statute also lists death as a possible penalty for rape, but this has been held to be unconstitutional. *See Kennedy v. Louisiana*, 128 S. Ct. 2641 (2008) (holding that the Eighth Amendment prohibits the death penalty for the rape of a child where the crime did not result, and was not intended to result, in death of the victim).

<sup>56</sup> This statute is likely unconstitutional as applied to non-commercial acts between consenting adults. *See Powell v. State*, 510 S.E.2d 18 (Ga. 1998). However, that should not affect its validity as applied to cases involving the commercial sexual exploitation of children.

<sup>57</sup> *Brewer v. State*, 523 S.E.2d 18 (Ga. 1999); *Boileau v. State*, 645 S.E.2d 577 (Ga. Ct. App. 2007).

<sup>58</sup> *Summerour v. State*, 530 S.E.2d 494 (Ga. Ct. App. 2000).

<sup>59</sup> *Neeley v. State*, 339 S.E.2d 654 (Ga. Ct. App. 1986).

<sup>60</sup> *See O.C.G.A. § 24-2-3.*

---

<sup>61</sup>“Intimate parts” means the primary genital area, anus, groin, inner thighs, or buttocks of a male or female and the breasts of a female. O.C.G.A. § 16-6-22.1(a) (2012).

<sup>62</sup> Haynes v. State, 690 S.E.2d 925 (Ga. Ct. App. 2010).

<sup>63</sup>“Foreign object” means any article or instrument other than the sexual organ of a person. O.C.G.A. § 16-6-22.2(a) (2012).

<sup>64</sup> Colton v. State, 678 S.E.2d 521 (Ga. Ct. App. 2009).

<sup>65</sup> Colton v. State, 678 S.E.2d 521 (Ga. Ct. App. 2009); Hardeman v. State, 544 S.E.2d 481 (Ga. Ct. App. 2001).

<sup>66</sup> Zepp v. State, 623 S.E.2d 569 (Ga. Ct. App. 2005).

<sup>67</sup> See O.C.G.A. § 24-2-3.

<sup>68</sup> Haynes v. State, 690 S.E.2d 925 (Ga. Ct. App. 2010).

<sup>69</sup> See Ayers v. State, 650 S.E.2d 370 (Ga. Ct. App. 2007) (victim need not testify that she was held involuntarily when other evidence established that she was abducted and held against her will); Smith v. State, 651 S.E.2d 133 (Ga. Ct. App. 2007) (victim may be held against her will even when she never asks to be set free); Winfrey v. State, 649 S.E.2d 561 (Ga. Ct. App. 2007) (a person's act of entering a car willingly does not preclude a finding that she was abducted and held against her will).

<sup>70</sup> Hammond v. State, 710 S.E.2d 124 (Ga. 2011) (citing *Garza v. State*, 670 S.E.2d 73 (Ga. 2008)).

<sup>71</sup> Movement is sufficient for kidnapping, and not merely an incidental part of another offense, when the defendant moves the victim to: (1) conceal or isolate the victim; (2) make commission of the other offense substantially easier; (3) lessen the risk of detection; or (4) avoid apprehension. O.C.G.A. § 16-5-40(b)(2).

<sup>72</sup> Frederick v. State, 353 S.E.2d 41 (Ga. Ct. App. 1987) (noting that the element of force was eliminated from kidnapping statute in 1968).

<sup>73</sup> Giddens v. State, 380 S.E.2d 274 (Ga. Ct. App. 1989).

<sup>74</sup> Greene v. State, 673 S.E.2d 292 (Ga. Ct. App. 2009).

<sup>75</sup> The statute also provides for the death penalty for kidnapping for ransom and kidnapping with bodily injury. However this is likely unconstitutional under the Supreme Court's holding in *Kennedy v. Louisiana*. *Kennedy v. Louisiana*, 128 S. Ct. 2641 (2008).

<sup>76</sup> Shue v. State, 553 S.E.2d 348 (Ga. Ct. App. 2000).

<sup>77</sup>“Child” means any person under age 17, or any person under age 18 who is alleged to be deprived under § 15-11-2. O.C.G.A. § 16-5-45(a)(1) (2012).

<sup>78</sup>“Lawful custody” means that custody inherent in the natural parents, awarded by proper authority under O.C.G.A. § 15-11-45 or awarded to a parent, guardian, or other person by a court. O.C.G.A. § 16-5-45(a)(3).

<sup>79</sup>This offense also applies to a non-custodial parent who retains a child after the period of visitation expires. O.C.G.A. § 16-5-45(c).

<sup>80</sup> State v. Evans, 384 S.E.2d 404 (Ga. Ct. App. 1989).

<sup>81</sup> See Thompson v. State, 537 S.E.2d 807 (Ga. Ct. App. 2000) (reversing the defendant's conviction for interference with custody when he picked up a 15-year-old girl who was skipping school and brought her to his home, because the girl's mother did not normally have or wish to have custody of her daughter during school hours).

<sup>82</sup> O.C.G.A. § 16-5-45(b)(1)(B) (2012).

<sup>83</sup> Latimore v. State, 421 S.E.2d 281 (Ga. 1992).

<sup>84</sup> Lamb v. State, 546 S.E.2d 465 (Ga. 2001).

<sup>85</sup> See Sheffield v. State, 635 S.E.2d 776 (Ga. 2006) (“Malice murder can be shown not only by evidence that the defendant acted with the deliberate intention unlawfully to take the life of another human being which is manifested by external circumstances capable of proof, but also by evidence that the defendant acted where no considerable provocation appears and where all the circumstances of the killing show an abandoned and malignant heart.”).

<sup>86</sup>The accused must have intent to commit the underlying felony. Jackson v. State, 577 S.E.2d 570 (Ga. 2003).

<sup>87</sup> The underlying felony must be inherently dangerous, either (1) dangerous per se, or (2) posing a foreseeable risk of death, under the circumstances. Hulme v. State, 544 S.E.2d 138 (Ga. 2001).

<sup>88</sup> O.C.G.A. § 16-5-2 (2012).

<sup>89</sup> Howard v. State, 707 S.E.2d 80 (Ga. 2011).

---

<sup>90</sup> In unlawful act manslaughter, “the killing must be the unintentional result of an act that, although unlawful, was not a felony.” *Moon v. State*, 662 S.E.2d 283 (Ga. 2008).

<sup>91</sup> In unlawful manner manslaughter, the defendant must commit the lawful act recklessly, i.e., “without due caution and circumspection.” *Chambers v. State*, 421 S.E.2d 88 (Ga. Ct. App. 1992); *see also* *Easley v. State*, 584 S.E.2d 629 (Ga. 2003).

<sup>92</sup> *Hamby v. State*, 328 S.E.2d 224 (Ga. Ct. App. 1985).

<sup>93</sup> *Lewis v. State*, 560 S.E.2d 73 (Ga. Ct. App. 2002); *In re C.S.*, 554 S.E.2d 558 (Ga. Ct. App. 2001); *Patterson v. State*, 385 S.E.2d 311 (Ga. Ct. App. 1989).

<sup>94</sup> *Brinson v. State*, 529 S.E.2d 129 (Ga. 2000); *Goforth v. State*, 523 S.E.2d 868 (Ga. 1999).

<sup>95</sup> *McGee v. State*, 299 S.E.2d 573 (Ga. Ct. App. 1983).

<sup>96</sup> *McGuire v. State*, 598 S.E.2d 55 (Ga. Ct. App. 2004).

<sup>97</sup> “Public transit vehicle” means a bus, van, or rail car used for the transportation of passengers within a system which receives a subsidy from tax revenues or is operated under a franchise contract with a county or municipality of this state. O.C.G.A. § 16-5-20(c) (2012).

<sup>98</sup> In addition to loaded and unloaded firearms, many other objects have been found to be deadly weapons, including a toy or replica weapon; a knife, including a pocketknife; an automobile; a piece of firewood; a bottle; a hammer; a ceramic statue; a razor; hands and fists; fists and feet; and a dog. *See* 20 Ga. Jur. Criminal Law § 6:20, *Particular Objects Found to Be Deadly Weapons* (updated Feb. 2010.).

<sup>99</sup> *See, e.g.*, *Dasher v. State*, 676 S.E.2d 181 (Ga. 2009) (beating with hands and fist); *Crider v. State*, 542 S.E.2d 163 (Ga. Ct. App. 2000) (choking with hands).

<sup>100</sup> “Public transit vehicle” means a bus, van, or rail car used for the transportation of passengers within a system which receives a subsidy from tax revenues or is operated under a franchise contract with a county or municipality of this state. O.C.G.A. § 16-5-21(f) (2010) (referring to the definition at O.C.G.A. § 16-5-20(c)).

<sup>101</sup> “School safety zone” means “in, on, or within 1,000 feet of any real property owned by or leased to any public or private elementary school, secondary school, or school board and used for elementary or secondary education and in, on, or within 1,000 feet of the campus of any public or private technical school, vocational school, college, university, or institution of postsecondary education.” O.C.G.A. § 16-5-21(i) (referring to the definition at O.C.G.A. § 16-11-127.1(a)(1)).

<sup>102</sup> “Terrorize” is not defined by statute.

<sup>103</sup> The statute prohibits “terroristic acts,” as well as “terroristic threats.” Terroristic acts include (1) burning a cross to terrorize another; (2) shooting at a vehicle with passengers; or (3) releasing a real or fake hazardous substance to intentionally or recklessly cause terror or serious public inconvenience. Although terroristic acts carry greater penalties than threats, these acts do not readily apply to CSEC cases.

<sup>104</sup> *Lanthrip v. State*, 218 S.E.2d 771 (Ga. 1975).

<sup>105</sup> *Id.*

<sup>106</sup> *Drew v. State*, 568 S.E.2d 506 (Ga. Ct. App. 2002).

<sup>107</sup> *In re C.S.G.*, 525 S.E.2d 106 (Ga. Ct. App. 1999).

<sup>108</sup> *See Wayne v. State*, 361 S.E.2d 39 (Ga. Ct. App. 1987).

<sup>109</sup> O.C.G.A. § 16-11-37(a) (2012).

<sup>110</sup> *Lloyd v. State*, 625 S.E.2d 771 (Ga. 2006).

<sup>111</sup> *Meja v. State*, 502 S.E.2d 484 (Ga. Ct. App. 1998).

<sup>112</sup> “Visible bodily harm” means “bodily harm capable of being perceived by a person other than the victim and may include, but is not limited to, substantially blackened eyes, substantially swollen lips or other facial or body parts, or substantial bruises to body parts.” O.C.G.A. § 16-5-23.1(b) (2012).

<sup>113</sup> *Babb v. State*, 556 S.E.2d 562 (Ga. Ct. App. 2001); *Downs v. State*, 524 S.E.2d 786 (Ga. Ct. App. 1999).

<sup>114</sup> *See Buice v. State*, 636 S.E.2d 676 (Ga. Ct. App. 2006) (evidence was sufficient for a family violence battery charge when the defendant physically beat victim in a motel room and he allegedly had an on-and-off “romantic” relationship with her.)

<sup>115</sup> “Malice” means that the defendant acted intentionally and without justification or serious provocation. *Roundtree v. State*, 490 S.E.2d 526 (Ga. App. Ct. 1997)

<sup>116</sup> Ganas v. State, 537 S.E.2d 758 (Ga. Ct. App. 2000) (a broken nose can be sufficient injury). Byrd v. State, 553 S.E.2d 380 (Ga. Ct. App. 2001) (contusions at and tearing of the vaginal canal can constitute serious disfigurement).

<sup>117</sup> Underwood v. State, 642 S.E.2d 324 (Ga. Ct. App. 2007) (“Although ‘seriously disfiguring’ is not defined in the aggravated battery statute, it must require an injury more severe than the visible wounds . . . required to support a mere battery conviction, that is, substantially blackened eyes, substantially swollen lips or other facial or body parts, or substantial bruises to body parts.”).

<sup>118</sup> In Interest of H.S., 405 S.E.2d 323 (Ga. Ct. App. 1991).

<sup>119</sup> The disregard must constitute “a gross deviation from the standard of care which a reasonable person would exercise in the situation.” O.C.G.A. § 16-5-60(b) (2012).

<sup>120</sup> Manzano v. State, 651 S.E.2d 661 (Ga. 2007).

<sup>121</sup> “Firearm” includes stun guns and tasers. O.C.G.A. § 16-11-106(a) (2012).

<sup>122</sup> The statute also applies when a the defendant commits (1) an unlawful entry into a building or vehicle; (2) a theft from a building or of a vehicle; or (3) any crime involving the possession, manufacture, delivery, distribution, dispensing, administering, selling, or possession with intent to distribute, illegal drugs. O.C.G.A. § 16-11-106.

<sup>123</sup> Carswell v. State, 555 S.E.2d 124 (Ga. Ct. App. 2001).

<sup>124</sup> O.C.G.A. § 16-11-106(e). See Braithwaite v. State, 572 S.E.2d 612 (Ga. 2002) (Because there were three murders, the defendant possessed a firearm in violation of O.C.G.A. § 16-11-106(b) three times, even though it was the same weapon. Accordingly, he was properly charged and convicted of three counts of possession of a firearm during a crime against a person.).

<sup>125</sup> It is also a crime to telephone and intentionally fail to hang up or disengage the connection. O.C.G.A. § 16-11-39.1(a) (2012).

<sup>126</sup> The defendant violates this statute if he uses this language “by telephone” or “in the presence of” a child under age 14. O.C.G.A. § 16-11-39(a).

<sup>127</sup> Williams v. State, 700 S.E.2d 653 (Ga. Ct. App. 2010).

<sup>128</sup> “Unborn child” means “a member of the species homo sapiens at any stage of development who is carried in the womb.” O.C.G.A. § 16-5-80(a) (2012).

<sup>129</sup> Convicting the defendant of both murder of mother and feticide was not error, even though “same conduct” was involved in both crimes. Ward v. State, 417 S.E.2d 130 (Ga. 1992).

<sup>130</sup> “Sexually explicit conduct” means “actual or simulated: (A) Sexual intercourse, including genital to genital, oral to genital, anal to genital, or oral to anal, whether between persons of the same or opposite sex; (B) Bestiality; (C) Masturbation; (D) Lewd exhibition of the genitals or pubic area of any person; (E) Flagellation or torture by or upon a person who is nude; (F) Condition of being fettered, bound, or otherwise physically restrained on the part of a person who is nude; (G) Physical contact in an act of apparent sexual stimulation or gratification with any person's unclothed genitals, pubic area, or buttocks or with a female's nude breasts; (H) Defecation or urination for the purpose of sexual stimulation of the viewer; or (I) Penetration of the vagina or rectum by any object except when done as part of a recognized medical procedure.” O.C.G.A. § 16-12-100(a)(4) (2012).

<sup>131</sup> “Visual medium” means any film, photograph, negative, slide, magazine, or other visual medium. O.C.G.A. § 16-12-100(a)(5).

<sup>132</sup> “Performance” means any play, dance, or exhibit to be shown to or viewed by an audience. O.C.G.A. § 16-12-100(a)(2).

<sup>133</sup> Berry v. State, 636 S.E.2d 150 (Ga. Ct. App. 2006); Phagan v. State, 486 S.E.2d 876 (Ga. 1997).

<sup>134</sup> Aman v. State, 409 S.E.2d 645 (Ga. 1991) (ruling that, for O.C.G.A. § 16-12-100 to be constitutional, the language “depict a minor” must be limited to photographic representations of a human being who at the time was minor and was engaged in sexually explicit conduct).

<sup>135</sup> In 2003, O.C.G.A. § 16-12-100 was amended to ban sexually explicit depictions of a “portion of a minor’s body.” The amendment’s purpose was to penalize a new form of child pornography that alters innocent images of children to create pornography. See Thomas Mihill, *Offenses Against Public Health and Morals: Change Certain Provisions Relating to Sexual Offenses, Pimping, and Sexual Battery; Include Depiction of Any Portion of a Minor’s Body Part in the Prohibition Against Sexual Exploitation of Children*, 20 GA. ST. U. L. REV. 84 (2003). Since these morphed images implicate the interests of real children and the images’ circulation harms the children’s

---

reputations and well-being, they fall outside the protection of the First Amendment. *Ashcroft v. Free Speech Coalition*, 535 U.S. 234 (2002).

<sup>136</sup> *State v. Brown*, 551 S.E.2d 773 (Ga. Ct. App. 2001) (statutory definition of “visual medium” is not restricted to the tangible objects named in the statute, but includes digital code that a defendant distributes electronically).

<sup>137</sup> *Aman v. State*, 409 S.E.2d 645 (Ga. 1991).

<sup>138</sup> “Electronically furnishes” means “(A) to make available by electronic storage device, including floppy disks and other magnetic storage devices, or by CD to ROM; or (B) to make available by allowing access to information stored in a computer, including making material available by operating a computer bulletin board.” O.C.G.A. § 16-12-100.1(a)(3).

<sup>139</sup> “‘Sexually explicit nudity’ means a state of undress so as to expose the human male or female genitals, pubic area, or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered or uncovered male genitals in a discernibly turgid state.” O.C.G.A. § 16-12-102(7) (2012).

<sup>140</sup> “‘Sexual conduct’ means human masturbation, sexual intercourse, or any touching of the genitals, pubic areas, or buttocks of the human male or female or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.” O.C.G.A. § 16-12-100.1(a)(7) (2012).

<sup>141</sup> “‘Sadomasochistic abuse’ means flagellation or torture by or upon a person who is nude or clad in undergarments or in revealing or bizarre costume or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed.” O.C.G.A. § 16-12-100.1(a)(6).

<sup>142</sup> “‘Sexual excitement’ means the condition of human male or female genitals or the breasts of the female when in a state of sexual stimulation.” O.C.G.A. § 16-12-100.1(a)(8).

<sup>143</sup> O.C.G.A. § 16-12-100.1(a)(4)(c).

<sup>144</sup> O.C.G.A. § 16-12-100.1(a)(4).

<sup>145</sup> O.C.G.A. § 16-12-100.1(b)(2).

<sup>146</sup> Illegal sexual acts include acts that are punishable as sodomy or aggravated sodomy; child molestation or aggravated child molestation; enticing a child for indecent purposes; or public indecency. O.C.G.A. § 16-12-100.2(d)(1).

<sup>147</sup> O.C.G.A. § 16-12-100.2(g).

<sup>148</sup> *Frix v. State*, 680 S.E.2d 582 (Ga. Ct. App. 2009).

<sup>149</sup> “Material is obscene if: (1) to the average person, applying contemporary community standards, taken as a whole, it predominantly appeals to the prurient interest, that is, a shameful or morbid interest in nudity, sex, or excretion; and (2) the material taken as a whole lacks serious literary, artistic, political, or scientific value; and (3) the material depicts or describes, in a patently offensive way . . . (A) Acts of sexual intercourse . . . ; (B) Acts of masturbation; (C) Acts involving excretory functions or lewd exhibition of the genitals; (D) Acts of bestiality or the fondling of sex organs of animals; or (E) Sexual acts of flagellation, torture, or other violence indicating a sadomasochistic sexual relationship.” O.C.G.A. § 16-12-80(b) (2012).

<sup>150</sup> O.C.G.A. § 16-12-80(a). Constructive knowledge means knowledge of facts which would put a reasonable and prudent person on notice as to the nature of the material. O.C.G.A. § 16-12-80(a).

<sup>151</sup> *Dorsey v. State*, 374 S.E.2d 102 (Ga. Ct. App. 1988).

<sup>152</sup> O.C.G.A. § 16-12-80(a).

<sup>153</sup> O.C.G.A. § 16-12-80(d).

<sup>154</sup> *Dyke v. State*, 209 S.E.2d 166 (Ga. 1974).

<sup>155</sup> “‘Nudity’ means the showing of the human male or female genitals, pubic area, or buttocks with less than a full opaque covering or the depiction of covered male genitals in a discernibly turgid state.” O.C.G.A. § 16-12-81(b) (2012).

<sup>156</sup> “‘Sexual conduct’ means acts of masturbation, homosexuality, sodomy, sexual intercourse, or physical contact with a person’s clothed or unclothed genitals, pubic area, buttocks, or, if the person is female, breast.” O.C.G.A. § 16-12-81(b).

---

<sup>157</sup> The notice must read: “Notice--The material contained herein depicts nudity or sexual conduct. If the viewing of such material could be offensive to the addressee, this container should not be opened but returned to the sender.” O.C.G.A. § 16-12-81(a).

<sup>158</sup> “Enterprise” means “any person, sole proprietorship, partnership, corporation, business trust, union . . . or other legal entity; or any unchartered union, association, or group of individuals associated in fact although not a legal entity; and it includes illicit as well as licit enterprises and governmental as well as other entities.” O.C.G.A. § 16-14-3(6) (2012).

<sup>159</sup> Chancey v. State, 349 S.E.2d 717 (Ga. 1986).

<sup>160</sup> For a full list of state acts of racketeering, see O.C.G.A. § 16-14-3(9)(A).

<sup>161</sup> Dorsey v. State, 615 S.E.2d 512 (Ga. 2005) (finding a clear connection between the enterprise, the sheriff's office, and the predicate acts committed by the sheriff, when the offenses were all part of a scheme to use the sheriff's office for illicit profit-making activities).

<sup>162</sup> Martin v. State, 376 S.E.2d 888 (Ga. Ct. App. 1988).

<sup>163</sup> Thompson v. State, 440 S.E.2d 670 (Ga. Ct. App. 1994).

<sup>164</sup> O.C.G.A. § 16-14-5 (2012).

<sup>165</sup> O.C.G.A. § 16-14-7 (2012).

<sup>166</sup> The Georgia Supreme Court recently upheld the criminal street gang statute as constitutional and clarified its elements. Rodriguez v. State, 671 S.E.2d 497 (Ga. 2009). A bill currently pending before the Georgia General Assembly would change some of the elements of this crime, and criminalize additional gang activities. See HB 1015, 2010 Georgia General Assembly Session.

<sup>167</sup> Rodriguez, 671 S.E.2d at 501 (stating that knowledge of the gang's involvement in illegal activities is an element of the crime).

<sup>168</sup> *Id.* (stating that there must be a nexus between the defendant's acts and his intent to further the gang's activities.).

<sup>169</sup> *Id.* (holding that the defendant's participation in the gang must be active; mere association is not enough).

<sup>170</sup> O.C.G.A. § 16-15-3(1)(2012) ( enumerating the offenses that may constitute criminal gang activity).

<sup>171</sup> O.C.G.A. § 16-15-3(2) (“Criminal street gang” means any organization, association, or group of three or more persons associated in fact, whether formal or informal, which engages in criminal gang activity.”).

<sup>172</sup> In re D.M., 706 S.E.2d 683, (Ga. Ct. App. 2011).

<sup>173</sup> O.C.G.A. § 16-15-3(1).

<sup>174</sup> The Georgia Supreme Court has repeatedly held the loitering statute constitutional. See Bell v. State, 313 S.E.2d 678 (Ga. 1984); State v. Burch, 443 S.E.2d 483 (Ga. 1994) (reaffirming Bell's holding). But see Johnson v. Athens to Clarke County, 529 S.E.2d 613 (Ga. 2000) (invalidating a nearly identical local ordinance that penalized a person for being at a place under circumstances that would raise reasonable alarm or immediate concern that the person was involved in unlawful drug activity).

<sup>175</sup> Griffin v. State, 479 S.E.2d 21 (Ga. Ct. App. 1996) (upholding loitering conviction on grounds that the sale of illegal drugs threatens “peace and order,” as well as the safety of the people who buy the drugs).

<sup>176</sup> A fictitious writing refers to “any writing in a fictitious name or in such manner that the writing as made or altered purports to have been made by another person, at another time, with different provisions, or by authority of one who did not give such authority.” O.C.G.A. § 16-9-1 (2012).

<sup>177</sup> Jackson v. State, 627 S.E.2d 853 (Ga. Ct. App. 2006).

<sup>178</sup> O.C.G.A. § 16-9-3 (2012).

<sup>179</sup> See, e.g., Estes v. State, 314 S.E.2d 700 (Ga. Ct. App. 1984) (Defendant was properly convicted as a party to the crime of forgery when he drove the forger to various locations); Smith v. State, 225 S.E.2d 744 (Ga. Ct. App. 1976) (holding that where each of ten forged checks was endorsed and passed by one of the defendant's accomplices pursuant to a conspiratorial scheme, the fact that the defendant, who signed checks under a fictitious name, did not himself pass the checks did not preclude conviction for forgery in the first degree).

<sup>180</sup> Velasquez v. State, 623 S.E.2d 721 (Ga. Ct. App. 2005).

<sup>181</sup> “Identification document” means “(1) [a]ny document or card issued to an individual by a government agency or by the authority of a government agency containing the name of a person and a description of the person or

---

such person's photograph, or both, and includes, without being limited to, a passport, visa, military identification card, driver's license, or an identification card; or (2) Any access device." O.C.G.A. § 16-9-4(a)(4) (2010).

<sup>182</sup> O.C.G.A. § 16-9-4(b)(3) also applies to non-government IDs that a the defendant makes, alters, sells, distributes, delivers or possesses with intent.

<sup>183</sup> *Walker v. State*, 658 S.E.2d 375 (Ga. Ct. App. 2008).

<sup>184</sup> This statute is not preempted by the federal Immigration Reform and Control Act of 1986, which penalizes use of false identification documents in immigration proceedings. *Hernandez v. State*, 639 S.E.2d 473 (Ga. 2007) (holding that prosecutors were not prevented by federal law from using O.C.G.A. § 16-9-121 to prosecute a the defendant for misappropriating a victim's Social Security number, using that number to obtain a Social Security card and driver's license, and using the card and license to obtain a job).

<sup>185</sup> Sexual offenders must register with the State pursuant to O.C.G.A. § 42-1-12. A sexual offender is any person who has been convicted of a dangerous sexual offense or certain other offenses against a child, including CSEC offenses such as pimping and pandering, rape, sodomy, child molestation, child sexual exploitation, kidnapping, false imprisonment, and other conduct "which, by its nature, is a sexual offense against a minor." For the complete list of offenses requiring registration as a sexual offender, see O.C.G.A. § 42-1-12(a)(20) (2012).

<sup>186</sup> *Harris v. State*, 659 S.E.2d 870 (Ga. Ct. App. 2008).

<sup>187</sup> This statute also applies to sex trafficking of adults by use of force, threats, fraud or coercion. 18 U.S.C. § 1591 (2012).

<sup>188</sup> *United States v. Evans* clarified that even if the defendant's enticement to prostitution was solely in one state, it could still be covered by federal jurisdiction. When considered in aggregate with similar conduct by others, the actions had the capacity to frustrate Congress' broader regulation of interstate commerce. *United States v. Evans*, 476 F.3d 1176 (11th Cir. 2007).

<sup>189</sup> This chart uses the term "federal grounds" to refer to the United States' "special maritime and territorial jurisdiction," which includes any "lands reserved or acquired for the use of the United States, and under the exclusive or concurrent jurisdiction thereof, or any place purchased or otherwise acquired by the United States . . . for the erection of a fort, magazine, arsenal, dockyard, or other needful building." 18 U.S.C. § 7(3) (2012).

<sup>190</sup> "Venture" is a group of two or more people associated in fact, whether or not a legal entity. 18 U.S.C. § 1591(e)(5) (2012).

<sup>191</sup> 18 U.S.C. § 1591(e)(3).

<sup>192</sup> 18 U.S.C. § 1591(c).

<sup>193</sup> Forfeiture provisions for all federal trafficking offenses are found in 18 U.S.C. § 1594.

<sup>194</sup> In federal criminal cases, courts can give fines of up to \$250,000 for felonies or misdemeanors resulting in death, up to \$100,000 for Class A misdemeanors not resulting in death, and up to \$5,000 in other misdemeanors, unless otherwise specified in the specific criminal statute. 18 U.S.C. § 3571 (2012). Because this range stays constant, this chart will not specify the amount of fine for a federal offense unless it is one specifically specified in the individual criminal statute.

<sup>195</sup> The White-Slave Traffic Act of 1910 or "Mann Act" is codified at 18 U.S.C. §§ 2421-2424.

<sup>196</sup> *U.S. v. Jones*, 808 F.2d 561 (7th Cir. 1986).

<sup>197</sup> *U.S. v. Rashkovski*, 301 F.3d 1133 (9th Cir. 2002), cert. denied, 537 U.S. 1179 (2003).

<sup>198</sup> *U.S. v. Broussard*, 669 F.3d 537 (5th Cir. 2012).

<sup>199</sup> *U.S. v. Cote*, 504 F.3d 682 (7th Cir. 2007) cert. denied 128 S. Ct. 2519 (2007).

<sup>200</sup> 18 U.S.C. § 2423(f) refers to 18 U.S.C. § 2246(2) for the definition of "sexual act": "(A) contact between the penis and the vulva or the penis and the anus, and, for purposes of this subparagraph, contact involving the penis occurs upon penetration however slight; (B) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus; (C) the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade the person named in the indictment, or to arouse or gratify the sexual desire of the defendant or any other person; or (D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person."

<sup>201</sup> 18 U.S.C. § 2423(f).

<sup>202</sup> 18 U.S.C. § 2423(g).

---

<sup>203</sup> The defendant is presumed to have failed to file the information, if it appears that the report is not on file with Immigration and Naturalization. 18 U.S.C. § 2424(b) (2012).

<sup>204</sup> 18 U.S.C. § 2241(c) (2012).

<sup>205</sup> 18 U.S.C. § 2241(d).

<sup>206</sup> Although 18 U.S.C. § 2250's constitutionality has been often challenged, the Eleventh Circuit Court of Appeals recently held that it is a valid exercise of Congress's Commerce Power because it is necessary to "track those offenders who move from jurisdiction to jurisdiction." U.S. v. Powers, 562 F.3d 1342 (11th Cir. 2009); *but see* U.S. v. Nasci, 632 F.Supp.2d 194 (N.D.N.Y. 2009) (holding that 18 U.S.C. § 2250 is an unconstitutional exercise of congressional powers and dismissing indictment).

<sup>207</sup> The Sex Offender Registration and Notification Act (SORNA) provides: "A sex offender shall register, and keep the registration current, in each jurisdiction where the offender resides, where the offender is an employee, and where the offender is a student." 42 U.S.C. § 16913(a) (2010). A "sex offender" is defined as any individual who is convicted of a sex offense under either state or federal law. 42 U.S.C. § 16911(1) (2012). Following a change of a sex offender's name, residence, employment, or student status, SORNA requires that a sex offender notify the state in which he lives of such change(s). 42 U.S.C. § 16913(c) (2012). Enforcement provisions are found in 18 U.S.C. § 2250.

<sup>208</sup> 18 U.S.C. § 2250(b).

<sup>209</sup> See U.S. v. Lewis, 115 F.3d 1531, 1535 (11th Cir. 1997) ("Knowledge of crossing state lines is not an essential element . . . . The requirement that an offender cross state lines merely furnishes a basis for the exercise of federal jurisdiction.").

<sup>210</sup> See U.S. v. Chancey, 715 F.2d 543 (11th Cir. 1983) (reversing the kidnapping conviction of a defendant who abducted, threatened to kill, and locked a 17-year-old girl in his trunk based, in large part, on evidence that the girl made no attempt to escape).

<sup>211</sup> Failure to release the victim within 24 hours creates a presumption that the victim was transported in interstate commerce. 18 U.S.C. § 1201(b) (2012).

<sup>212</sup> Proof of an overt act is not necessary under this section; entering an agreement to deprive another of his civil rights is sufficient. U.S. v. Skillman, 922 F.2d 1370 (9th Cir. 1990); U.S. v. Morado, 454 F.2d 167 (5th Cir. 1972); Williams v. U.S., 179 F.2d 644 (5th Cir. 1950).

<sup>213</sup> See U.S. v. Kozminski, 487 U.S. 931 (1988) (right to be free from involuntary servitude); U.S. v. Guest, 383 U.S. 745 (1966) (right to interstate travel); and U.S. v. DiNome, 954 F.2d 839 (2d Cir. 1992) (right to testify as a federal witness).

<sup>214</sup> "Involuntary servitude" means a condition of compulsory service in which the victim is compelled to perform labor or services against the victim's will for the benefit of another person due to the use or threat of physical restraint or physical injury or coercion through law or the legal process. U.S. v. Kozminski, 487 U.S. 931, 952 (1988).

<sup>215</sup> A "slave" is a person who is "wholly subject to will of another, one who ha[s] no freedom of action and whose services [a]re wholly under control of another, and who [i]s in a state of enforced compulsory service to another." U.S. v. Ingalls, 73 F. Supp. 76, 78 (S.D. Cal. 1947).

<sup>216</sup> Heflin v. Sanford, 142 F.2d 798 (5th Cir. 1944).

<sup>217</sup> See U.S. v. King, 840 F.2d 1276 (6th Cir. 1988) (upholding convictions of religious sect leaders under 18 U.S.C. § 1584 because they repeatedly used and threatened to use physical force to make children perform labor); *see also* U.S. v. Warren, 772 F.2d 827 (11th Cir. 1985) (affirming convictions when defendants picked up victims under false pretenses, delivered them to a labor camp and kept them working in the fields without pay by use of alcohol, threats, and acts of violence).

<sup>218</sup> U.S. v. Pipkins, 378 F.3d 1281, 1299-1301 (11th Cir. 2004), *opinion reinstated by*, 412 F.3d 1251 (11th Cir. 2005), *cert. denied*, 546 U.S. 994 (2005).

<sup>219</sup> *See also* U.S. v. Warren, 772 F.2d 827, 833 (11th Cir. 1985).

<sup>220</sup> *See also* U.S. v. Kozminski, 487 U.S. 931 (1988) (holding that a victim's vulnerabilities are "relevant in determining whether the physical or legal coercion or threats thereof could plausibly have compelled the victim to serve").

<sup>221</sup> "'Serious harm' means any harm, physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under the surrounding circumstances, to compel a reasonable person of the same

---

background and in the same circumstances to perform or to continue performing labor or services in order to avoid incurring that harm.” 18 U.S.C. § 1589(c) (2012).

<sup>222</sup> U.S. v. Calimlim 538 F.3d 706, 717 (7th Cir. 2008).

<sup>223</sup> “Malice aforethought” encompasses three distinct mental states: (1) intent to kill; (2) intent to do serious bodily injury; and (3) extreme recklessness and wanton disregard for human life (“depraved heart”). *Lara v. U. S. Parole Commission*, 990 F.2d 839, 841 (5th Cir. 1993). “Malice does not require a subjective intent to kill, but may be established by evidence of conduct which is a “reckless and wanton and a gross deviation from a reasonable standard of care.” *United States v. Black Elk*, 579 F.2d 49, 51 (8th Cir.1978).

<sup>224</sup> “[D]eliberation and premeditation under § 1111 involve a prior design to commit murder, [but] no particular period of time is necessary for such deliberation and premeditation. There must be some appreciable time for reflection and consideration before execution of the act, although the period of time “does not require the lapse of days or hours or even minutes.” *U.S. v. Shaw*, 701 F.2d 367, 395 (5th Cir. 1983).

<sup>225</sup> In the case of felony murder, the malice aforethought requirement of § 1111 is satisfied by the fact that the murder results from the perpetration of the enumerated crime. *U.S. v. Thomas*, 34 F.3d 44, 49 (2d Cir.), *cert. denied*, 513 U.S. 1007 (1994).

<sup>226</sup> *U.S. v. Wright*, 549 F.3d 259 (4th Cir. 2010).

<sup>227</sup> “In the heat of passion” means an emotional state that is generally provoked or induced by anger, fear, terror, or rage. In order for this provocation to be an “adequate provocation,” it must be of a kind that would naturally cause a reasonable person to temporarily lose self control and to commit the act upon impulse and without reflection but which did not justify the use of deadly force. *Lizama v. U.S. Parole Comm’n*, 245 F.3d 503, 506 (5th Cir. 2001).

<sup>228</sup> The Government must prove that the defendant knew or should have known that his acts would threaten the lives of others. *U. S. v. Pardee*, 368 F.2d 368 (4th Cir. 1966).

<sup>229</sup> *U.S. v. Gaskell*, 985 F.2d 1056, 1064 (11th Cir.1993).

<sup>230</sup> The “substantial step” required to establish an attempt must be something beyond mere preparation; it must be an act which, unless frustrated by some condition or event, would have resulted, in the ordinary and likely course of things, in the commission of the crime being attempted. *U.S. v. Smith*, 264 F.3d 1012, 1016 (10th Cir. 2001). *See also U.S. v. DeSantiago-Flores*, 107 F.3d 1472, 1478-79 (10th Cir. 1997).

<sup>231</sup> *U.S. v. Brenson*, 104 F.3d 1267 (11th Cir. 1997) (holding that in a case involving a conspiracy to defraud the U.S. under 18 U.S.C. § 371., the elements of conspiracy are (1) the existence of an agreement to achieve an unlawful objective; (2) the defendant’s knowing and voluntary participation in the conspiracy; and (3) the commission of an overt act in furtherance of the conspiracy). *See also U.S. v. Williams*, 474 F.2d 1047 (5th Cir. 1973) (upholding a conspiracy conviction in Georgia under 18 U.S.C. § 371, holding that the prosecution need only demonstrate an unlawful agreement and one independent act in furtherance of the agreement, but it need not show that the conspirators committed the substantive crime charged, nor is it necessary to substantiate each of the overt acts alleged in the indictment).

<sup>232</sup> *U. S. v. Dupree*, 544 F.2d 1050 (9th Cir. 1976). *See also U.S. v. Guilbert*, 692 F.2d 1340 (11th Cir. 1982).

<sup>233</sup> “Serious bodily injury” means bodily injury which involves a substantial risk of death; extreme physical pain; protracted and obvious disfigurement; or protracted loss or impairment of the function of a bodily member, organ, or mental faculty. 18 U.S.C. § 113(b) (2012).

<sup>234</sup> “Substantial bodily injury” means bodily injury which involves a temporary but substantial disfigurement; or a temporary but substantial loss or impairment of the function of any bodily member, organ, or mental faculty. *Id.*

<sup>235</sup> “Intimate partner” includes (1) a person who cohabits or has cohabited as a spouse with the abuser; (2) a person similarly situated to a spouse with the abuser; or (3) a person who is or has been in a social relationship of a romantic or intimate nature with the abuser, as determined by the length and type of relationship, and frequency of the interactions between the persons involved in the relationship. “Dating partner” refers to a person who is or has been in a social relationship of a romantic or intimate nature with the abuser that is of a lesser degree than the relationship of an intimate partner. 18 U.S.C. § 2266 (2012).

<sup>236</sup> The two prior convictions must be for assault, sexual abuse or a serious violent felony against an intimate partner, or for domestic violence or stalking. 18 U.S.C. § 117(a) (2010).

<sup>237</sup> *See* 18 U.S.C. § 117(b).

---

<sup>238</sup> This statute also penalizes a variety of other firearm-related offenses. *See* 18 U.S.C. § 924 (2012).

<sup>239</sup> 18 U.S.C. § 924(c)(1)(A).

<sup>240</sup> For a complete list of enumerated offenses, *see* 18 U.S.C. § 1841(b) (2012).

<sup>241</sup> 18 U.S.C. § 1841(d).

<sup>242</sup> 18 U.S.C. § 1841(a)(2)(B).

<sup>243</sup> The statutes in this section of the chart appear in Title 18, Chapter 110 of the United States Code, entitled “Sexual Exploitation and Other Abuse of Children.”

<sup>244</sup> “Sexually explicit conduct” is actual or simulated: (1) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal contact, whether between persons of the same or opposite sex; (2) bestiality; (3) masturbation; (4) sadistic or masochistic abuse; or (3) lascivious exhibition of the genitals or pubic area of any person. 18 U.S.C. § 2256(2) (2012). Courts consider the following factors to determine “lascivious exhibition:” whether the focus is on the child’s genitals or pubic area; the setting is sexually suggestive; the child is in an unnatural pose or inappropriate attire for her age; the child is partially clothed or nude; the depiction suggests sexual coyness; and the depiction is meant to elicit a sexual response. *See* Ralph J. Seep, Annotation, *Validity, construction, and application of 18 U.S.C.A. § 2251*, 99 A.L.R. FED. 643 (1990).

<sup>245</sup> Visual depiction includes any undeveloped film and videotape, data stored on computer disk or by electronic means which is capable of conversion into a visual image, and data which is capable of conversion into a visual image that has been transmitted by any means. 18 U.S.C. § 2256(5).

<sup>246</sup> The defendant must know that the material depicts sexually explicit conduct but have only a reckless disregard for the fact that at least one person in the depiction is a child. *U.S. v. X-citement Video, Inc.*, 513 U.S. 64 (1994).

<sup>247</sup> *U.S. v. Blum*, 534 F.3d 608 (7th Cir. 2008), *cert. denied* 129 S. Ct. 589 (2008); *U.S. v. Grimmatt*, 439 F.3d 1263 (10th Cir. 2006); *U.S. v. Sharpley*, 399 F.3d 123 (2d Cir. 2005).

<sup>248</sup> 18 U.S.C. § 2256(7) (2012).

<sup>249</sup> *United States v. Block*, 635 F.3d 721 (5th Cir. 2011) *cert. denied*, 132 S. Ct. 323 (2011).

<sup>250</sup> *See* 18 U.S.C. § 2256(7).

<sup>251</sup> *See U.S. v. X-citement Video, Inc.*, 513 U.S. 64 (1994).

<sup>252</sup> 18 U.S.C. § 2252 (2012). *See U.S. v. Robinson*, 137 F.3d 652 (1st Cir. 1998) (holding that Congress properly exercised its powers under Commerce Clause in enacting statute barring possession of child pornography; statute contained explicit jurisdictional element requiring that visual depictions, or materials used to create such depictions, be mailed, shipped or transported in interstate or foreign commerce, and, by outlawing purely intrastate possession of child pornography, Congress could curb nationwide demand for such materials).

<sup>253</sup> 18 U.S.C. § 2252(c).

<sup>254</sup> 18 U.S.C. § 2256 (2012).

<sup>255</sup> 18 U.S.C. § 2252A(c) (2012).

<sup>256</sup> In an en banc decision, the Sixth Circuit Court of Appeals held that 18 U.S.C. § 2257 is constitutional, at least as applied to pornography involving children. *Connection Distrib. Co. v. Keisler*, 557 F.3d 321 (6th Cir. 2009), *vacating*, 505 F.3d 545 (6th Cir. 2007), *cert. denied*, 130 S. Ct. 362 (2009).

<sup>257</sup> 18 U.S.C. § 2257A provides certain exceptions to § 2257 and 2257A, but these exceptions apply only to commercial enterprises that certify to the Attorney General that they already maintain records on each performer in their normal course of business. 18 U.S.C. § 2257A (2012).

<sup>258</sup> In prosecutions under 18 U.S.C. § 1460-1470, there is a presumption that the obscene material traveled in interstate commerce if the material was produced in one state or country and ended up in another state or country. 18 U.S.C. § 1469 (2012).

<sup>259</sup> The knowledge requirement is met if the defendant knew of the nature and character of the allegedly obscene material, even if he did not know the materials were legally obscene. *Hamling v. U.S.*, 418 U.S. 87 (1974). *See also U. S. v. New Orleans Book Mart, Inc.*, 490 F.2d 73 (5th Cir. 1974), *cert. denied*, 419 U.S. 1007 (1974) (holding that knowledge as to exact content of material rather than general knowledge that material is sexually oriented, is not required under § 1461).

<sup>260</sup> *Miller v. U.S.*, 413 U.S. 15 (1973). *See also U.S. v. Bagnell*, 679 F.2d 826, 835-37 (11th Cir. 1990) (applying the *Miller* test).

<sup>261</sup> *Pope v. Illinois*, 481 U.S. 497, 500-01 (1987).

---

<sup>262</sup> 47 U.S.C. § 230(f)(2) (2012).

<sup>263</sup> The statute applies to interstate transmission of obscene images by computer, but not to transmission of sexually-suggestive verbal messages by phone. *See* U.S. v. Thomas, 74 F.3d 701 (6th Cir. 1996), *cert. denied*, 519 U.S. 820 (1996) (holding that 18 U.S.C. § 1465 applies to a computer bulletin board business that transmitted obscene computer-generated images to members); U.S. v. Carlin Communications, Inc., 815 F.2d 1367 (10th Cir. 1987) (holding that § 1465 is inapplicable to phone service that allowed members to listen to pre-recorded sexual messages).

<sup>264</sup> “Engaged in the business” means that the person “devotes time, attention, or labor to such activities, as a regular course of trade or business, with the objective of earning a profit.” 18 U.S.C. § 1466 (b) (2010).

<sup>265</sup> *See* 18 U.S.C. § 2256(2) *supra* note 221 for definition of “sexually explicit conduct.”

<sup>266</sup> U.S. v. Handley, 564 F. Supp.2d 996, 1005-08 (S.D. Iowa 2008).

<sup>267</sup> 18 U.S.C. § 2252A(c).

<sup>268</sup> U.S. v. Spurlock, 495 F.3d 1011 (8th Cir. 2007).

<sup>269</sup> “Controlled substance” means certain illegal and legal drugs that are subject to abuse. *See* 21 U.S.C. § 812 for a complete list. Tobacco and alcohol are not included. 21 U.S.C. § 802(6) (2012).

<sup>270</sup> The penalties for distribution vary depending the type of drug and other factors. *See* 21 U.S.C. § 841(b) (2012).

<sup>271</sup> “Enterprise” includes any “union or group of individuals associated in fact although not a legal entity.” 18 U.S.C. § 1961 (2012).

<sup>272</sup> A “pattern of racketeering activity” requires at least two acts of racketeering activity, one of which occurred after the effective date of this chapter and the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity. 18 U.S.C. § 1961.

<sup>273</sup> U.S. v. Harrison, 329 F.3d 779, 785 (11th Cir.2003) (establishing the two methods for proving the defendant entered conspiracy).

<sup>274</sup> The predicate acts are listed at 18 U.S.C. § 1961(1).

<sup>275</sup> In 2001, prosecutors charged 15 of Atlanta’s most notorious pimps with violating the federal RICO statute. Thirteen pled guilty. The federal court rejected the appeals of the remaining two defendants. U.S. v. Pipkins, 378 F.3d 1281, 1299-1301 (11th Cir.2004), *opinion reinstated by*, 412 F.3d 1251 (11th Cir. 2005), *cert. denied*, 546 U.S. 994 (2005).

<sup>276</sup> *See also*, United States v. Valera, 845 F.2d 923 (11th Cir.1988) (suggesting that a RICO enterprise can be as amorphous as a “pick-up” basketball game).

<sup>277</sup> 18 U.S.C. § 521(a).

<sup>278</sup> The controlled substance offense must be punishable by not less than 5 years imprisonment. The felony crime of violence must have an element of physical force, or attempted physical force against the person of another. 18 U.S.C. § 521 (2012).

<sup>279</sup> An ID-making “implement” is any implement, such as a template, computer file, electronic device, or computer hardware or software, specifically designed and used to make ID documents or other ID-making implements. 18 U.S.C. § 1028 (2012).

<sup>280</sup> “Means of identification” is any name or number that is used to identify an individual, such as a date of birth, social security number, driver’s license, passport, electronic ID number or address, or even a fingerprint or other unique physical characteristic. 18 U.S.C. § 1028 (2012).

<sup>281</sup> *See* U.S. v. Klopff, 423 F.3d 1228, 1237 (11th Cir. 2005) (“The government must prove only a minimal nexus with interstate commerce in a § 1028(a) prosecution to satisfy the ‘in or affects interstate or foreign commerce’ requirement. . . The defendant need have had only the intent to accomplish acts, which, if successful, would have affected interstate or foreign commerce.”).

<sup>282</sup> 18 U.S.C. § 1028(d)(3).

<sup>283</sup> *See, e.g.*, U.S. v. Pipkins, (convicting pimp under 18 U.S.C. § 1028, because he provide the underage girls whom he was prostituting with false birth certificates and social security cards so that they could enter and perform at a men’s club).

<sup>284</sup> A “crime of violence” is a felony that has as an element the use, attempted use, or threatened use of physical force against a person, such as a CSEC victim, or her property, or that by its nature, involves a substantial risk that physical force against the person or property may be used. 18 U.S.C. § 924(3) (2010).

---

<sup>285</sup>“Knowingly” requires (1) that the defendant know that he is acting without lawful authority, and (2) that he knows that the means of identification he is using belongs to another person. *Flores-Figueroa v. U.S.*, 129 S. Ct. 1886 (2009).

<sup>286</sup> For a full list of the enumerated felonies, see 18 U.S.C. 1208A(c) (2012).

<sup>287</sup> 18 U.S.C. § 1426 (2012).

<sup>288</sup> This statute may not be used to prosecute the trafficking victim. 18 U.S.C. § 1592(b).

<sup>289</sup> A “severe form of trafficking” includes “sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age.” 22 U.S.C. § 7102(8) (2012).

<sup>290</sup> For nationwide trainings and conferences, the state-specific material in this report could be generalized to refer the types of crimes that are applicable to CSEC, rather than to particular statutes.

<sup>291</sup> ECPAT, an international organization dedicated to combating child trafficking worldwide, has designed a one-page pamphlet to be placed in hotel rooms, which warns guests that children are used in prostitution; travelers are often tempted to engage in prostitution; and prostitution does devastating harm to the child. Atlanta is a popular destination for travelers. The material in this report could be used to create a similar pamphlet that would include an additional warning about CSEC’s legal consequences.